

Verizon Southwest  
April 16, 2010

**DOCKET NO. 36185**

<b>IN THE MATTER OF THE PETITION</b>	<b>§</b>	
<b>OF INTRADO INC. FOR</b>	<b>§</b>	
<b>ARBITRATION PURSUANT TO</b>	<b>§</b>	
<b>SECTION 252(b) OF THE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>COMMUNICATIONS ACT OF 1934,</b>	<b>§</b>	
<b>AS AMENDED, TO ESTABLISH AN</b>	<b>§</b>	<b>OF TEXAS</b>
<b>INTERCONNECTION AGREEMENT</b>	<b>§</b>	
<b>WITH GTE SOUTHWEST</b>	<b>§</b>	
<b>INCORPORATED, D/B/A VERIZON</b>	<b>§</b>	
<b>SOUTHWEST</b>	<b>§</b>	

**DIRECT TESTIMONY OF DON PRICE ON BEHALF OF  
GTE SOUTHWEST INCORPORATED D/B/A VERIZON SOUTHWEST**

**TABLE OF CONTENTS**

I.	INTRODUCTION AND BACKGROUND .....	3
II.	PURPOSE OF TESTIMONY .....	4
III.	INTRADO'S "EMERGENCY SERVICE" IS NOT "EXCHANGE ACCESS" .....	6
IV.	INTRADO'S "EMERGENCY SERVICE" IS NOT "TELEPHONE EXCHANGE SERVICE" .....	10
V.	INTRADO'S TEXAS RATE SHEET NO. 2 .....	20
	A. Intrado's Outbound Calling Service .....	22
	B. Intrado's Emergency Notification Service .....	27
	C. Intrado's Enterprise E9-1-1 Service .....	29
VI.	OTHER STATE COMMISSION DECISIONS .....	32
VII.	CONCLUSION .....	34
VIII.	AFFIDAVIT .....	35
IX.	EXHIBITS .....	36

Exhibit DP-1 - Section 5 Intrado Texas Rate Sheet No. 1

Exhibit DP-2 - Florida Public Service Commission Docket No. 070736-TP, Final Order

Exhibit DP-3 - FCC WC Docket No. 08-185, Reply of Intrado Communications of Virginia Inc.

Exhibit DP-4 - Illinois Commerce Commission Docket No. 08-0545, Arbitration Decision

Exhibit DP-5 - PUC Docket No. 30197, Order - Service Provider Certificate of Operating Authority

Exhibit DP-6 - Intrado Texas Rate Sheet No. 2

Exhibit DP-7 - Intrado Response to Verizon Request for Admission No. 2

Exhibit DP-8 - Florida Public Service Commission Docket No. 070699-TP, Final Order

**DIRECT TESTIMONY OF DON PRICE**

**I. INTRODUCTION AND BACKGROUND**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Don Price. My business address is 701 Brazos, Suite 600, Austin, TX, 78701.

**Q. BY WHOM ARE YOU EMPLOYED, AND IN WHAT CAPACITY?**

A. I am employed by Verizon as a Director – State Public Policy.

**Q. PLEASE BRIEFLY OUTLINE YOUR EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY AND YOUR EDUCATIONAL BACKGROUND.**

A. I have more than 30 years of experience in telecommunications, most of which is in the area of public policy. During my career, I have been in the employ of an incumbent local exchange carrier, a state regulator, and an entity operating as an interexchange carrier and a competitive LEC. For the past 17 years, my job responsibilities have focused on policy issues relating to telecommunications competition. I have testified in numerous state commission proceedings on a wide range of policy and business issues related to access charges, interconnection, and other competition-related matters on behalf of Verizon (and previously MCI). In addition, I help develop Verizon's policy positions on various issues, and I work closely with many different organizations, including

1 those involved with the enterprise products Verizon sells and those who engineer  
2 and construct Verizon's enterprise networks.

3 My educational credentials include a Master of Arts degree from the  
4 University of Texas at Arlington in 1978 and a Bachelor of Arts degree from the  
5 University of Texas at Arlington in 1977.  
6

7 **Q. ARE YOU A LAWYER?**

8 A. No, but the threshold issue in this arbitration does involve legal interpretations of  
9 Section 251(c) of the Federal Telecommunications Act of 1996 ("Act") and  
10 whether the offering of "emergency services" entitles Intrado to the  
11 "interconnection" arrangements it seeks from Verizon. Although I will leave  
12 detailed legal analyses to Verizon's lawyers, I will provide the relevant facts that  
13 support such legal analyses and demonstrate that Intrado's "emergency services"  
14 do not qualify for the interconnection arrangements requested by Intrado.

15 **II. PURPOSE OF TESTIMONY**

16 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

17 A. Intrado wants to interconnect with Verizon under Section 251(c) of the Act, which  
18 permits interconnection "for the transmission and routing of telephone exchange  
19 service and exchange access." The purpose of my testimony is to set forth facts  
20 demonstrating that the conclusion in the November 23, 2009 Order on Threshold  
21 Issue No. 1 remains valid. Intrado's "emergency services" are not "telephone  
22 exchange service" or "exchange access" under the Act. Intrado's "emergency  
23 services" are instead specialized telecommunications services that enable a local



1 government agency to receive calls from persons located within its political  
2 boundaries that need emergency assistance. They do not qualify as either “telephone  
3 exchange service” or “exchange access.”

4 “Exchange access” is not a service that merely allows a single customer in a  
5 particular geographic area to receive calls for the limited purpose of responding to  
6 requests for emergency assistance. Rather, “exchange access” is a service that  
7 enables interconnected customers to make and receive toll calls through  
8 interexchange carriers. Intrado has acknowledged in other proceedings that its  
9 “emergency services” are not “exchange access.”

10 “Telephone exchange service” is likewise not a service that merely allows  
11 one customer in a particular geographic area to receive calls requesting emergency  
12 assistance. Rather, “telephone exchange service” is a service that enables all  
13 customers in a geographic area to place calls to all other interconnected customers in  
14 that geographic area and to receive calls from all of those interconnected customers  
15 for any type of communication. “Telephone exchange service” allows all customers  
16 to dial any telephone number to reach any other interconnected customer, whether  
17 that customer is served by a traditional landline telephone, a wireless telephone or  
18 some other device. It is not limited to the dialing of only one telephone number –  
19 911 – to reach only one customer – a local government agency – for the limited  
20 purpose of requesting emergency assistance.

**III. INTRADO'S "EMERGENCY SERVICE"  
IS NOT "EXCHANGE ACCESS"**

**Q. WHAT IS "EMERGENCY SERVICE"?**

A. The Federal Communications Commission ("FCC") adopted several rules that describe "emergency" or "911" service. Section 54.101(a)(5), 47 C.F.R. § 54.101(a)(5), defines "911" as "a service that permits a telecommunications user, by dialing the three-digit code '911,' to call emergency services through a Public Service Access Point (PSAP) operated by the local government." Likewise, Section 64.3000(a), 47 C.F.R. § 64.3000(a), defines "911 calls" as "[a]ny call initiated by an end user by dialing 911 for the purpose of accessing an emergency service provider."

Texas statutes contain similar definitions. For example, Section 771.001(6) of the Texas Health and Safety Code defines "9-1-1 service" as "a telecommunications service that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 9-1-1." *See also* Section 772.001(6) of the Texas Health and Safety Code.

**Q. PLEASE DESCRIBE THE "EMERGENCY SERVICES" THAT VERIZON PROVIDES TODAY.**

A. Verizon provides "emergency services" to counties that include trunking, routing and features that enable these local governmental authorities or Public Service Answering Points ("PSAPs") to receive 911 calls requesting emergency assistance. Verizon's wireline network includes a series of end office switches that

1       serve Verizon's customers. Each end office switch is directly connected, by means  
2       of dedicated trunks, to a "mated" pair of special tandem switches, called selective  
3       routers. These selective routers aggregate 911 calls from Verizon's end offices and  
4       send them over dedicated circuits to the appropriate PSAPs.

5  
6       **Q.     HOW DOES VERIZON PROVIDE "EMERGENCY SERVICES" FOR 911**  
7       **CALLS THAT ARE ORIGINATED BY OTHER CARRIERS?**

8       A.     Other carriers, like wireless carriers and competitive local exchange carriers  
9       generally do not have direct connections to PSAPs themselves, but have end users  
10      who need to make emergency or 911 calls. These carriers generally have service  
11      areas that overlap Verizon's and they interconnect at Verizon's tandem/selective  
12      router using their own circuits or circuits provided by Verizon or another carrier.  
13      These carriers originate their customers' 911 calls and deliver them to Verizon's  
14      tandem/selective router. Verizon then delivers their customers' 911 calls to the  
15      appropriate PSAP.

16  
17      **Q.     HOW DOES INTRADO DESCRIBE ITS "EMERGENCY SERVICES"?**

18      A.     Intrado's descriptions of its emergency services are generally consistent with  
19      definitions in the FCC's rules and the Texas statutes. Intrado's Intelligent  
20      Emergency Network<sup>®</sup> services would provide emergency services only to public  
21      safety agencies that receive 911 calls for a defined geographic area and dispatch  
22      emergency medical and public safety services in response to those calls. Intrado's  
23      Petition for Arbitration says that its emergency service offering "provides routing,

1 transmission, and transport of traditional and non-traditional emergency calls to  
2 the appropriate [Public Safety Answering Point].”<sup>1</sup> Intrado’s Petition also  
3 indicates that it will provide these emergency services “to end users such as  
4 public safety agencies or governmental 911 authorities.”<sup>2</sup>

5 Intrado’s Rate Sheet on file with the Commission at the time it filed its  
6 Petition (Intrado’s Texas Rate Sheet No. 1) confirms that Intrado’s “Intelligent  
7 Emergency Network Services are telecommunications services that permit a  
8 PSAP to receive emergency calls placed by dialing the number 9-1-1 and/or  
9 emergency calls originated by personal communications devices.”<sup>3</sup> These  
10 services will “support interconnection to other telecommunications service  
11 providers for the purpose of receiving emergency calls originated in their  
12 networks.”<sup>4</sup>

13  
14 **Q. WHAT IS “EXCHANGE ACCESS”?**

15 A. Section 153(16) of the Act says that the term “exchange access” means “the offering  
16 of access to telephone exchange services or facilities for the purpose of the  
17 origination and termination of telephone toll service.” Section 153(48) says that the  
18 term “telephone toll service” means “telephone service between different exchange  
19 areas for which there is made a separate charge not included in contracts with  
20 subscribers for exchange service.”

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<sup>1</sup> Intrado Petition for Arbitration at 7 (filed Sept. 24, 2008) (“Intrado Petition”).

<sup>2</sup> *Id.*

<sup>3</sup> See Exhibit DP-1 (Section 5.1).

<sup>4</sup> See Exhibit DP-1 (Section 5.1).

1           It is my understanding that the term “exchange access” refers to services that  
2           allow customers to make or receive toll calls through an interexchange carrier. Toll  
3           calls are also known as long distance calls that extend beyond the customer’s local  
4           calling area. Toll calls are generally dialed on a 1-plus-10-digit basis.

5  
6   **Q.   DOES INTRADO CLAIM THAT ITS “EMERGENCY SERVICES” ARE**  
7   **“EXCHANGE ACCESS”?**

8   A.   No. Intrado has not argued that its “emergency services” are “exchange access.”  
9           In its Motion for Reconsideration, Intrado acknowledged that “[a] carrier  
10          providing exchange access services provides local access to other carriers (or to  
11          itself) to originate and terminate toll or long distance calls” and that Intrado’s  
12          “911 service does not fall squarely within the definition of ‘exchange access’  
13          because 911 services are not toll services.” Intrado’s Motion for Reconsideration  
14          at 18.

15           In Florida, the Commission found that Intrado’s own witness had admitted  
16          that Intrado’s 911 service is not “exchange access.”<sup>5</sup> Likewise, Intrado said to the  
17          FCC that “Intrado Comm acknowledges that its competitive 911/E911 service  
18          offering is not an ‘exchange access’ service as defined in the Act.”<sup>6</sup>

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<sup>5</sup> See Exhibit DP-2, *Petition by Intrado Comm., Inc. for Arbitration of Certain Rates, Terms, and conditions for Interconnection and Related Arrangements with AT&T Florida, Pursuant to Section 252(b) of the Comm. Act of 1934, as Amended*, Docket No. 070736-TP, Final Order No. PSC-08-0798-FOF-TP at 2 (Dec. 3, 2008) (“AT&T/Intrado Order”).

<sup>6</sup> See Exhibit DP-3, *Reply of Intrado Communications of Virginia Inc., Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with Verizon South Inc. and Verizon Virginia Inc. (collectively, “Verizon”)* at 11 n.36, FCC WC Docket No. 08-185 (filed Jan. 29, 2009).

1     **Q.     ARE INTRADO’S “EMERGENCY SERVICES” “EXCHANGE ACCESS”?**

2     A.     No. Intrado’s “emergency services” simply complete the 911 call from another  
3           carrier’s customer to the appropriate PSAP or emergency responder in order for  
4           the caller to receive emergency assistance. The 911 call from the other carrier’s  
5           end user to Intrado’s emergency service customer is not a long distance call for  
6           which a carrier assesses a toll charge. Nor does Intrado’s “emergency service”  
7           customer or the 911 caller access an interexchange carrier during the 911 call. It  
8           is my understanding that because emergency services do not involve toll calls,  
9           they are not “exchange access.” In any event, as I noted above, Intrado has not  
10          claimed that its “emergency services” are “exchange access.”

11                 **IV.           INTRADO’S “EMERGENCY SERVICE” IS NOT**  
12                         **“TELEPHONE EXCHANGE SERVICE”**  
13

14     **Q.     WHAT IS “TELEPHONE EXCHANGE SERVICE”?**

15     A.     Section 153(47) of the Act defines “telephone exchange service” as “(A) service  
16           within a telephone exchange, or within a connected system of telephone  
17           exchanges within the same exchange area operated to furnish to subscribers  
18           intercommunicating service of the character ordinarily furnished by a single  
19           exchange, and which is covered by the exchange service charge, or (B)  
20           comparable service provided through a system of switches, transmission  
21           equipment, or other facilities (or combination thereof) by which a subscriber can  
22           originate and terminate a telecommunications service.”<sup>7</sup>

23                 This definition has two subparts – (A) and (B) – and a service that meets

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<sup>7</sup> 47 U.S.C. § 153(47).

1 the qualifications of either subpart would be a “telephone exchange service.” As  
2 explained further below, Intrado’s “emergency service” does not fit within either  
3 of these subparts.  
4

5 **Q. HAS INTRADO ADMITTED THAT ITS “EMERGENCY SERVICE” IS**  
6 **NOT A SUBSTITUTE FOR “TELEPHONE EXCHANGE SERVICE”?**

7 A. Yes. Intrado states in its rate sheet that its “Intelligent Emergency Network  
8 Service is not intended to replace the local telephone service of the various public  
9 safety agencies which may participate in the use of this service.”<sup>8</sup> In fact, Intrado  
10 requires that “the Customer will subscribe to local exchange service at the PSAP  
11 location for administrative purposes, for placing outgoing calls, and for receiving  
12 other calls.”<sup>9</sup>  
13

14 **Q. HAS THE FCC DESCRIBED WHAT IT MEANS TO FURNISH**  
15 **SUBSCRIBERS “INTERCOMMUNICATING SERVICE” UNDER**  
16 **SUBPART (A) OF THE DEFINITION OF “TELEPHONE EXCHANGE**  
17 **SERVICE”?**

18 A. Yes. In the *Directory Assistance Order*,<sup>10</sup> the Commission said that a service  
19 constitutes “intercommunication” if it “permits a community of interconnected

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<sup>8</sup> See Exhibit DP-1 (Section 5.2.3).

<sup>9</sup> See Exhibit DP-1 (Section 5.2.9.D).

<sup>10</sup> *Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, 16 FCC Rcd 2736, ¶ 17 (2001) (“*Directory Assistance Order*”).

1 customers to make calls to one another.” In the *Advanced Services Order*,<sup>11</sup> the  
2 Commission said that “‘intercommunication’ refers to a service that ‘permits a  
3 community of interconnected customers to make calls to one another over a  
4 switched network.’”

5  
6 **Q. WHAT ARE THE KEY FEATURES OF AN INTERCOMMUNICATING**  
7 **SERVICE?**

8 A. It is my understanding of the FCC’s orders that an “intercommunicating service”  
9 has at least three key features. All of these features must be present for a service  
10 to meet the “intercommunication” requirement of the definition of “telephone  
11 exchange service.”

12 First, the service must enable the customer to place *and* receive calls. A  
13 service that only allows the customer to place calls or only allows the customer to  
14 receive calls is not an “intercommunicating service.”

15 Second, the service must enable the customer to place a call to any and all  
16 other interconnected customers. A service that only allows a customer to place  
17 calls to a specific customer or destination is not an “intercommunicating service.”

18 Third, the service must be available to more than one customer. Both the  
19 *Advanced Services Order* and the *Directory Assistance Order* refer to  
20 “intercommunicating service” as a service available to all customers in an  
21 exchange area. A service that is only available to one customer in an exchange

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<sup>11</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order on Remand, 15 FCC Rcd 385, ¶ 23 (1999) (“*Advanced Services Order*”).



1 area is not an intercommunicating service.

2 As explained further below, Intrado's "emergency service" does not have  
3 any of these three key features.  
4

5 **Q. DOES INTRADO'S "EMERGENCY SERVICE" ENABLE INTRADO'S**  
6 **CUSTOMER TO PLACE AND RECEIVE CALLS?**

7 A. No, Intrado's "emergency service" does not enable the customer to place any  
8 calls. Intrado's "Intelligent Emergency Network Services are telecommunications  
9 services that permit a PSAP to *receive* emergency calls placed by callers dialing  
10 the number 9-1-1 and/or emergency calls originated by personal communications  
11 devices."<sup>12</sup> They provide "one way call delivery trunks from the 9-1-1 Routing  
12 Service to the PSAP."<sup>13</sup>

13 Intrado's "emergency services" are not for the PSAP's use in making  
14 outgoing calls. Rather, Intrado requires that "the Customer will subscribe to local  
15 exchange service at the PSAP location . . . for placing outgoing calls."<sup>14</sup>  
16

17 **Q. HAS THE FCC DETERMINED THAT SERVICES THAT ONLY ALLOW**  
18 **CUSTOMERS TO RECEIVE CALLS ARE NOT**  
19 **"INTERCOMMUNICATING SERVICES" AND DO NOT SATISFY THE**  
20 **DEFINITION OF "TELEPHONE EXCHANGE SERVICE"?**

21 A. Yes. Paging service is a telecommunications service that customers can use to

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<sup>12</sup> See Exhibit DP-1 (Section 5.1) (emphasis supplied).

<sup>13</sup> See Exhibit DP-1 (Section 5.1.4).

<sup>14</sup> See Exhibit DP-1 (Section 5.2.9.D).

1 receive calls from interconnected customers. Customers cannot use a paging  
2 service to place any calls to any interconnected customers.

3 In 1996, the FCC first considered whether paging service meets the  
4 definition of “telephone exchange service.” The FCC said that “[p]aging is not  
5 ‘telephone exchange service’ within the meaning of the Act because it is neither  
6 ‘intercommunicating service of the character ordinarily furnished by a single  
7 exchange’ nor ‘comparable’ to such service.”<sup>15</sup> Three years later, the  
8 Commission “decline[d] at this time to reconsider [its] decision in the *Local*  
9 *Competition Second Report and Order* that paging carriers do not provide  
10 telephone exchange service as described in Section 153(47) of the Act.”<sup>16</sup>

11  
12 **Q. DOES INTRADO’S “EMERGENCY SERVICE” ALLOW INTRADO’S**  
13 **CUSTOMER TO PLACE CALLS TO ALL OTHER INTERCONNECTED**  
14 **CUSTOMERS?**

15 A. No. As explained above, Intrado’s “emergency service” does not allow Intrado’s  
16 customer to place any telephone calls. Intrado’s “emergency service” is only for  
17 the receipt of 911 calls requesting emergency assistance.

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<sup>15</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston Ordered by the Public Utilities Commission of Texas, and Administration of the North American Numbering Plan, Second Report and Order and Memorandum Opinion and Order*, 11 FCC Rcd 19392, ¶ 333 n.700 (1996) (“*Local Competition Second Report and Order*”), vacated in part sub nom. *People of the State of California v. Federal Communications Commission*, 124 F.3d 934 (8th Cir. 1997), rev’d, *AT&T Corp. v. Iowa Util. Bd.*, 119 S. Ct 721 (1999).

<sup>16</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston Ordered by the Public Utilities Commission of Texas, and Administration of the North American Numbering Plan*, Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order, 14 FCC Rcd 17964, ¶ 91 (1996).

1           Intrado's "emergency service" includes a feature that allows the customer  
2           to depress the hook switch ("hookflash") and transfer an incoming 911 call to  
3           another location.<sup>17</sup> Intrado has argued that this feature enables Intrado's customer  
4           to place telephone calls. Transferring a call, however, is not the same thing as  
5           placing a telephone call. When Intrado's customer uses this transfer feature, he is  
6           merely extending or completing the original 911 call. The party who placed or  
7           originated the call is the person who dialed 911. The transfer performed by  
8           Intrado's customer merely completes that 911 call to the appropriate emergency  
9           responder. As the Illinois Commission observed: "Simply, hookflashing is not  
10          call origination. It is a call transfer procedure that reroutes a call *originated by the*  
11          *person placing the inbound 911 call to the PSAP.*"<sup>18</sup>

12  
13   **Q.     DOES     INTRADO'S     "EMERGENCY     SERVICE"     ALLOW**  
14   **INTERCONNECTED CUSTOMERS OF OTHER CARRIERS TO PLACE**  
15   **CALLS TO ALL OTHER INTERCONNECTED CUSTOMERS?**

16   A.   No. While "telephone exchange service" enables interconnected customers to  
17          place calls to all other interconnected customers, Intrado's "emergency service"  
18          does not. Interconnected customers of other carriers can only place 911 calls to  
19          PSAPs through Intrado's "emergency service." Interconnected customers cannot  
20          use Intrado's "emergency service" to place calls to any other interconnected

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<sup>17</sup> See Exhibit DP-1 (Section 5.1.2).

<sup>18</sup> See Exhibit DP-4, *Petition for Arbitration Pursuant to Section 252(b) of the Comm. Act of 1934 as Amended, to Establish an Interconnection Agreement with Ill. Bell. Tel. Co.*, Docket 08-0545, Arbitration Decision at 8 (March 17, 2009) ("*Ill. Order*") (emphasis in original).

1 customers.

2

3 **Q. IS INTRADO'S "EMERGENCY SERVICE" A SERVICE OFFERED TO**  
4 **ALL INTERCONNECTED CUSTOMERS?**

5 A. No. In any particular geographic area, Intrado's "emergency service" is available  
6 to only one customer – the government agency authorized to receive 911 calls and  
7 coordinate the provision of emergency assistance. As explained in Intrado's rate  
8 sheet, "[t]he Customer must be legally authorized to subscribe to the service and  
9 have public safety responsibility by law to respond to telephone calls from the  
10 public for emergency police, fire or other emergency services within the served  
11 territory."<sup>19</sup>

12

13 **Q. IS INTRADO'S "EMERGENCY SERVICE" A SERVICE PROVIDED TO**  
14 **THE PERSON PLACING A 911 CALL?**

15 A. No. The person placing a 911 call receives its "emergency service" from its local  
16 telephone service provider, not Intrado. The Commission ordinarily makes a  
17 service provider's certificate of authority contingent on the local telephone service  
18 provider also providing 911 emergency telephone service to its customers. For  
19 example, in a recent service provider certificate of authority issued by the  
20 Commission, it states that the "[a]pplicant's provision of local telephone service  
21 to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop,

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<sup>19</sup> See Exhibit DP-1 (Section 5.2.1).

1 must also include '9-1-1' emergency telephone service at a level required by the  
2 applicable regional plan followed by local telephone service providers under  
3 Chapters 771 and 772 of the Texas Health and Safety Code."<sup>20</sup>

4

5 **Q. HAS THE FCC DESCRIBED WHAT IT MEANS TO FURNISH**  
6 **SUBSCRIBERS A "COMPARABLE SERVICE" UNDER SUBPART (B)**  
7 **OF THE DEFINITION OF "TELEPHONE EXCHANGE SERVICE"?**

8 A. Yes. In the *Directory Assistance Order*, the Commission said that "[t]o be a  
9 'comparable service,' a provider must allow a calling party the ability, 'through  
10 the system of switches, transmission equipment, or other facilities (or  
11 combination thereof)' to 'originate and terminate a telecommunications  
12 service.'"<sup>21</sup> The Commission found that call completion provided by a directory  
13 assistance provider to the caller was a "comparable service" because it "allows a  
14 local caller at his or her request to connect to another local telephone subscriber'  
15 thereby permitting a community of interconnected customers to make calls to one  
16 another.'"<sup>22</sup>

17

18 **Q. WHAT ARE THE KEY FEATURES OF A "COMPARABLE SERVICE"?**

19 A. It is my understanding of the FCC's order that a "comparable service" has at least  
20 three key features. All of these features must be present for a service to be  
21 considered a "comparable service" under the definition of "telephone exchange

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<sup>20</sup> See Exhibit DP-5.

<sup>21</sup> *Directory Assistance Order* ¶ 20.

<sup>22</sup> *Directory Assistance Order* ¶ 21 (footnote omitted).

1 service.”

2 First, the service must enable the customer both to originate calls *and* to  
3 terminate calls. A service that only terminates calls is not a comparable service.

4 Second, the service must enable a community of interconnected customers  
5 to connect to any other local telephone subscriber. A service that only allows a  
6 customer to connect to a specific customer is not a comparable service.

7 Third, the service must be provided directly to the calling party. A service  
8 provided to local exchange carrier who then provides the service to the caller is  
9 not a comparable service.

10 As explained further below, Intrado’s “emergency service” does not have  
11 any of these three key features.

12

13 **Q. DOES INTRADO’S “EMERGENCY SERVICE” PROVIDE THE CALLER**  
14 **THE ABILITY TO ORIGINATE AND TERMINATE A CALL?**

15 A. No, Intrado’s “emergency service” is not provided to the 911 caller and therefore  
16 does not provide the caller the ability to originate and terminate a call. Rather,  
17 Intrado’s “emergency service” is a service provided only to the recipient of the  
18 911 call and simply terminates the call.<sup>23</sup>

19 When a person places a 911 call, that call is originated by the caller’s local  
20 telephone service provider, not Intrado. As explained above (at 15), the  
21 Commission ordinarily makes a service provider’s certificate of authority

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<sup>23</sup> See Exhibit DP-1 (Section 5.1).

1 contingent on the local telephone service provider also providing 911 emergency  
2 telephone service to its customers. It is the local service provider who provides  
3 telephone exchange service to the 911 caller that originates the 911 call.

4 **Q. DOES INTRADO'S "EMERGENCY SERVICE" ALLOW THE CALLER**  
5 **TO CONNECT TO ANY OTHER LOCAL TELEPHONE SUBSCRIBER**  
6 **OF HIS CHOOSING?**

7 A. No. Intrado's "emergency service" allows the caller to dial only one number –  
8 911 – in order to reach only one customer – the local government agency  
9 providing emergency assistance. Callers cannot use Intrado's "emergency  
10 service" and request to be connected to any other local telephone subscriber.

11

12 **Q. IS INTRADO'S "EMERGENCY SERVICE" PROVIDED DIRECTLY TO**  
13 **THE 911 CALLER?**

14 A. No. In the *Directory Assistance Order*, the Commission noted that the directory  
15 assistance provider was providing the call completion service directly to the caller  
16 and charging the caller for that service. By contrast, Intrado provides "emergency  
17 service" to the recipient of the 911 call, not the 911 caller, and charges the  
18 recipient for that service.

1   **Q.   IS THERE ANYTHING ELSE THAT DISTINGUISHES INTRADO'S**  
2       **"EMERGENCY SERVICE" FROM "TELEPHONE EXCHANGE**  
3       **SERVICE"?**

4   A.   Yes. To the best of my knowledge, every telephone exchange service allows the  
5       customer or caller to transmit any information the caller or customer chooses.  
6       There are no restrictions on the types of information or communications that the  
7       caller or customer can transmit by using a telephone exchange service.

8               By contrast, Intrado's "emergency service" is limited to the transmission  
9       of only one type of communication – a request for emergency assistance. As  
10       explained in Intrado's rate sheet, Intrado's "emergency services" are "services  
11       that permit a PSAP to receive *emergency* calls placed by callers dialing the  
12       number 9-1-1 and/or *emergency* calls originated by personal communications  
13       devices."<sup>24</sup> I am not aware of any telephone exchange service that has similar  
14       restrictions on the types of information and communications that can be  
15       transmitted by the caller or customer.

16               **V.       INTRADO'S TEXAS RATE SHEET NO. 2**

17   **Q.   HAS INTRADO FILED A NEW RATE SHEET FOR ITS SERVICES IN**  
18       **TEXAS?**

19   A.   Yes. Nearly 18 months after filing its Petition for Arbitration in this proceeding  
20       (and less than one month before the due date for testimony), Intrado filed a new  
21       rate sheet – Texas Rate Sheet No. 2.<sup>25</sup> This new rate sheet differs from Intrado's

---

<sup>24</sup> See Exhibit DP-1 (Section 5.1).

<sup>25</sup> See Exhibit DP-6.



1 Texas Rate Sheet No. 1, which was in effect at the time Intrado filed its petition  
2 for arbitration. Intrado's new rate sheet appears to contain new features and  
3 services that were added in an attempt to improve Intrado's arguments under  
4 Threshold Issue No. 1.

5 **Q. IS INTRADO'S NEW RATE SHEET RELEVANT TO THE ISSUE OF**  
6 **WHAT "EMERGENCY SERVICES" INTRADO PLANNED TO PROVIDE**  
7 **WHEN IT FILED ITS ARBITRATION PETITION?**

8 A. No. The only "emergency services" Intrado planned to provide at the time it filed  
9 for arbitration were the ones listed in its Petition and its Texas Rate Sheet No. 1,  
10 which was in effect when Intrado filed its Petition. The new features and services  
11 included in Intrado's new Texas Rate Sheet No. 2 are not relevant to the question  
12 of what "emergency services" Intrado planned to provide when it filed for  
13 arbitration. There is no basis for the Commission to consider these new features  
14 and services in its analysis of the threshold issue because Intrado did not develop  
15 plans to offer these new features and services until a year and a half after it filed  
16 for arbitration.

17  
18 **Q. DO ANY OF THE NEW FEATURES OR SERVICES INTRODUCED IN**  
19 **INTRADO'S NEW RATE SHEET CONSTITUTE "TELEPHONE**  
20 **EXCHANGE SERVICE" OR "EXCHANGE ACCESS"?**

21 A. No. As I explain below, none of the new features or services fit within the  
22 definitions of "telephone exchange service" or "exchange access. Apparently,  
23 Intrado added them to its rate sheet simply for the purpose of making arguments

1 in this proceeding, but those arguments do not, in any event, help Intrado.

2 **A. Intrado's Outbound Calling Service**

3 **Q. PLEASE DESCRIBE INTRADO'S OUTBOUND CALLING SERVICE**  
4 **FOR IP-EQUIPPED PSAPs.**

5 A. In connection with the "emergency services" described above that Intrado plans to  
6 provide to government agencies, Intrado claims it now plans to offer an outbound  
7 calling service at PSAP locations. According to Intrado's new rate sheet, this  
8 service would "allow[] a PSAP call taker to press a single button on an approved  
9 Customer telephone system to obtain dial tone and originate a call to any 7-digit  
10 or 10-digit telephone number."<sup>26</sup>

11  
12 **Q. WOULD INTRADO'S OUTBOUND CALLING SERVICE FACILITATE**  
13 **THE PROVISION OF "EMERGENCY SERVICE"?**

14 A. No. Intrado's Outbound Calling Service has nothing to do with the customer's  
15 handling of 911 calls or the provision of emergency assistance. It appears to be a  
16 service that would allow 911 call takers to place calls that have nothing to do with  
17 the provision of "emergency service."

18 In fact, Intrado's Outbound Calling Service would likely inhibit or  
19 interfere with the customer's provision of "emergency service." Under Texas  
20 law, a PSAP means "a continuously operated communications facility that is  
21 assigned the responsibility to receive 9-1-1 calls."<sup>27</sup> In order to provide PSAP  
22 services consistent with Texas law, 911 call takers should be ready to receive 911

---

<sup>26</sup> See Exhibit DP-6 (Section 5.1.7.A).

<sup>27</sup> Section 771.001(9) of the Texas Health and Safety Code.

1 calls at all times. If 911 call takers at PSAPs were to use Intrado's Outbound  
2 Calling Service to place calls from their PSAP stations, they would not be able to  
3 receive 911 calls at their PSAP stations. Intrado's Outbound Calling Service  
4 would thus inhibit or interfere with the PSAPs ability to receive 911 calls  
5 consistent with Texas law.  
6

7 **Q. IS INTRADO'S OUTBOUND CALLING SERVICE A REPLACEMENT**  
8 **OR SUBSTITUTE FOR "TELEPHONE EXCHANGE SERVICE"?**

9 A. No. Intrado is not offering its Outbound Calling Service as a replacement or  
10 substitute for telephone exchange service. In fact, Intrado appears to prohibit the  
11 use of its Outbound Calling Service for placing outgoing calls from PSAPs  
12 through other provisions of its new rate sheet.

13 Intrado's new rate sheet states that Intrado's services "are not intended as  
14 a total replacement for the local telephone service of the various public safety  
15 agencies that may participate in the use of this service."<sup>28</sup> It also states that "[t]he  
16 Customer must subscribe to additional Local Exchange Services for purposes of  
17 placing administrative outgoing call and receiving other calls."<sup>29</sup> Intrado also  
18 requires that "[t]he Customer will subscribe to Local Exchange Service at the  
19 PSAP location for administrative purposes, for placing outgoing calls, and for  
20 receiving other calls."<sup>30</sup>

---

<sup>28</sup> See Exhibit DP-6 (Section 5.2.3).

<sup>29</sup> See Exhibit DP-6 (Section 5.2.3).

<sup>30</sup> See Exhibit DP-6 (Section 5.2.9.D).

1   **Q.   IS INTRADO'S OUTBOUND CALLING SERVICE IN ANY WAY**  
2       **RELATED TO INTRADO'S REQUEST FOR INTERCONNECTION**  
3       **ARRANGEMENTS WITH VERIZON?**

4   A.   No. If Intrado actually provided Outbound Calling Service to a customer, none of  
5       that traffic would be carried over the interconnection arrangements Intrado seeks  
6       with Verizon.

7           According to Intrado's new rate sheet, an Intrado customer could use  
8       Outbound Calling Service to place a call to "any 7-digit or 10-digit telephone  
9       number."<sup>31</sup> These telephone numbers would presumably include all of Verizon's  
10      customers' telephone numbers. In discovery, Verizon asked Intrado what traffic  
11      would be delivered over the interconnection arrangements requested by Intrado.  
12      The only interconnection traffic Intrado identified in its response was traffic to  
13      PSAPs served by Verizon, all of which would be 911 dialed calls.<sup>32</sup> Intrado  
14      admitted that calls from Intrado's customers to Verizon's customers' telephone  
15      numbers would not be delivered over the interconnection arrangements requested  
16      by Intrado. Intrado's Outbound Calling Service has nothing to do with Intrado's  
17      request for interconnection.

18

19   **Q.   IS INTRADO'S OUTBOUND CALLING SERVICE A VOICE OVER**  
20       **INTERNET PROTOCOL SERVICE?**

21   A.   Yes. Intrado's Outbound Calling Service is described as a service for "IP-

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<sup>31</sup> See Exhibit DP-6 (Section 5.1.7.A).

<sup>32</sup> See Exhibit DP-7.

1 Equipped PSAPs.”<sup>33</sup> According to Intrado’s new rate sheet, “[t]his service is  
2 available only to those PSAPs using Internet Protocol (‘IP’) connectivity to  
3 receive 9-1-1 calls from Company and those PSAPs that have installed approved,  
4 IP-based equipment at the PSAP call taker’s location.”<sup>34</sup>

5  
6 **Q. HAS THE FCC DETERMINED WHETHER VOICE OVER INTERNET**  
7 **PROTOCOL SERVICE IS A TELECOMMUNICATIONS SERVICE OR**  
8 **AN INFORMATION SERVICE?**

9 A. No. As recently as last year, the FCC noted that “the Commission has not yet  
10 classified interconnected VoIP service as either a telecommunications service or  
11 an information service.”<sup>35</sup> If the FCC determines that VoIP service is an  
12 “information service,” rather than a “telecommunications service,” VoIP service  
13 could not be a “telephone exchange service” or “exchange access.” Because the  
14 term “information service” excludes “telephone exchange service” and “exchange  
15 access,” the Commission has determined that information service providers are  
16 not entitled to interconnection under Section 251(c).<sup>36</sup>

17 Verizon is not asking this Commission to determine whether VoIP service  
18 is an information service or a telecommunications service. That is a question  
19 properly before the FCC and the FCC has not yet answered that question. But the

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<sup>33</sup> See Exhibit DP-6 (Section 5.1.7).

<sup>34</sup> See Exhibit DP-6 (Section 5.1.7.B.1).

<sup>35</sup> *Schools and Libraries Universal Service Support Mechanism*, 2009 FCC LEXIS 6190, ¶ 12 (2009).

<sup>36</sup> See *Informal Complaint No. 96-07892*, 11 FCC Rcd 15046 (1996) (“the Commission, in adopting rules to implement the interconnection provisions of the Act, made it clear that an information service provider would not be able to avail itself of the interconnection requirements of Section 251 of the Act. Pursuant to these rules, information service providers may take advantage of the interconnection provisions of the Act only to the extent that they also provide telecommunications services” – e.g., telephone exchange services or exchange access) (citations omitted).

1       uncertainty about the regulatory classification of VoIP service provides an  
2       additional reason for the Commission to avoid the novel, expansive notion of  
3       telephone exchange service that Intrado advocates for its services in this case.  
4

5       **Q.   DOES INTRADO’S OUTBOUND CALLING SERVICE HAVE THE KEY**  
6       **FEATURES OF AN INTERCOMMUNICATING SERVICE UNDER**  
7       **SUBPART (A) OF THE ACT’S DEFINITION OF “TELEPHONE**  
8       **EXCHANGE SERVICE”?**

9       A.   No. In order to qualify as an intercommunicating service, Intrado’s Outbound  
10       Calling Service would have to enable the customer to place *and* receive calls.  
11       Intrado’s service would only allow a call taker at a 911 PSAP to place outgoing  
12       calls. That call taker would not be able to receive an incoming call through this  
13       service. In other words, if an interconnected customer wanted to place a call to a  
14       particular 911 call taker, they would not be able to do so.

15               An intercommunicating service must also be available to more than one  
16       customer. Both the *Advanced Services Order* and the *Directory Assistance Order*  
17       refer to “intercommunicating service” as a service available to all customers in an  
18       exchange area. Intrado’s Outbound Calling Service is only available to the  
19       government agency that provides emergency service in that geographic area.

1   **Q.   DOES INTRADO'S OUTBOUND CALLING SERVICE HAVE THE KEY**  
2       **FEATURES OF A COMPARABLE SERVICE UNDER SUBPART (B) OF**  
3       **THE ACT'S DEFINITION OF "TELEPHONE EXCHANGE SERVICE"?**

4   A.   No. In order to qualify as a comparable service, Intrado's Outbound Calling  
5       service would have to enable a community of interconnected customers to  
6       connect to any other local telephone subscriber of his choosing. Intrado's  
7       Outbound Calling Service is only available to a government agency for use by its  
8       911 call takers. No other interconnected customers would be able to use this  
9       service to connect to any other local telephone subscriber.

10               **B. Intrado's Emergency Notification Service**

11   **Q.   PLEASE DESCRIBE THE EMERGENCY NOTIFICATION SERVICE**  
12       **THAT INTRADO ADDED TO ITS NEW RATE SHEET.**

13   A.   According to Intrado's new rate sheet, Emergency Notification Service would  
14       provide "outbound emergency notification messaging to all telephone subscribers  
15       within a specified geographic area."<sup>37</sup> This service would give Intrado's customer  
16       the ability "to disseminate important emergency information" to "potential 911  
17       callers within a specified geographic area."<sup>38</sup>

18               Intrado's Emergency Notification Service appears to be a service that  
19       simply broadcasts a pre-recorded message to a selected list of telephone numbers  
20       through an auto dialer. It is not a service that allows all interconnected customers  
21       to place calls to and to receive calls from all other interconnected customers.

---

<sup>37</sup> See Exhibit DP-6 (Section 5.1.6).

<sup>38</sup> See Exhibit DP-6 (Section 5.1.6).

1   **Q.   HAS THE FCC EVER DETERMINED THAT BROADCAST-TYPE**  
2       **SERVICES, LIKE INTRADO'S EMERGENCY BROADCAST SERVICE,**  
3       **ARE NOT "TELEPHONE EXCHANGE SERVICE"?**

4   A.   Yes. In the *General Telephone Order*,<sup>39</sup> the Commission considered whether  
5       CATV channel service, which distributes television programming to CATV  
6       subscribers, is a "telephone exchange service." The Commission said that the  
7       phrase "telephone exchange service" is "intended primarily to apply to a  
8       telephone or comparable service involving 'intercommunication,' i.e., a two-way  
9       communication, not the one-way transmission of signals which takes place with  
10      respect to CATV channel service."<sup>40</sup> On appeal, the D.C. Circuit agreed:  
11      "[c]learly, CATV channel distribution service does not contemplate furnishing  
12      subscribers with 'intercommunicating service' of the type usually identified with  
13      a telephone exchange."<sup>41</sup>

14             In the *Midwest Corp. Order*,<sup>42</sup> the Commission considered whether  
15      Multipoint Distribution Service ("MDS") is a "telephone exchange service." The  
16      Commission said that MDS is not a "telephone exchange service" because "MDS  
17      is primarily a one-way television service which provides the members of  
18      commercial and institutional subscribers with the simultaneous reception of  
19      specialized communications in accordance with their specific transmission,

---

<sup>39</sup> *General Telephone Company of California, et al., Applicability of Section 214 of the Communications Act with Regard to Tariffs for Channel Service for Use by Community Antenna Television Systems*, 13 F.C.C.2d 448 (1968) ("General Telephone Order").

<sup>40</sup> *Id.* ¶ 24.

<sup>41</sup> *General Tel. Co. v. FCC*, 413 F.2d 390, 401 (D.C. Cir. 1969).

<sup>42</sup> *Applications of Midwest Corp. and Two-Way Radio of Carolina, Inc. For Construction Permits in the Multipoint Distribution Service for a New Channel 1 Station at Charlotte, N.C.*, 53 F.C.C.2d 294 (1975).



1 reception, and programming requirements.”<sup>43</sup>

2 **C. Intrado’s Enterprise E9-1-1 Service**

3 **Q. PLEASE DESCRIBE THE ENTERPRISE E9-1-1 SERVICE THAT**  
4 **INTRADO ADDED TO ITS NEW RATE SHEET.**

5 A. According to Intrado’s new rate sheet, Enterprise E9-1-1 Service would provide  
6 “delivery of E9-1-1 calls originating from telephone stations/lines served by a  
7 multi-line private switch to the appropriate PSAP.”<sup>44</sup> With this service offering,  
8 the customer would be “responsible for installation of sufficient voice grade  
9 facilities (minimum of two) to maintain a P.01 grade of service from the private  
10 switch location to Company’s E911 network.”<sup>45</sup> In addition, the “Customer’s  
11 private switch must be capable of forwarding ANI of a station/line served by  
12 Customer’s private switch to Company’s network when 9-1-1 is dialed.”<sup>46</sup>  
13 Intrado’s new rate sheet defines “ANI” as “[a] type of signaling provided by a  
14 Local Exchange Carrier that automatically identifies the local exchange line from  
15 which a call originates.”<sup>47</sup>

16 **Q. HOW DOES INTRADO’S ENTERPRISE E9-1-1 SERVICE DIFFER**  
17 **FROM THE “EMERGENCY SERVICE” THAT INTRADO PLANS TO**  
18 **PROVIDE TO GOVERNMENT AGENCIES?**

19 A. These services appear to be identical. Both of these services deliver 911 calls to  
20 the appropriate PSAP. In the case of Enterprise E9-1-1 Service, Intrado would

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<sup>43</sup> *Id.* ¶ 10.

<sup>44</sup> See Exhibit DP-6 (Section 5.4.1).

<sup>45</sup> See Exhibit DP-6 (Section 5.4.1.B).

<sup>46</sup> See Exhibit DP-6 (Section 5.4.1.C).

<sup>47</sup> See Exhibit DP-6 (Section 1).

1 receive the 911 call directly from the business customer and would charge that  
2 customer for the service. In the case of Intrado's emergency service provided to  
3 the government agency, Intrado would receive 911 calls from all interconnected  
4 business customers and carriers and would charge the government agency for that  
5 service.

6  
7 **Q. DOES INTRADO'S ENTERPRISE E9-1-1 SERVICE HAVE THE KEY**  
8 **FEATURES OF AN "INTERCOMMUNICATING SERVICE" UNDER**  
9 **SUBPART (A) OF THE ACT'S DEFINITION OF "TELEPHONE**  
10 **EXCHANGE SERVICE"?**

11 A. No. In order to qualify as an intercommunicating service, Intrado's Enterprise  
12 E9-1-1 Service would have to enable the customer to place *and* receive calls. But  
13 this service only allows for the "delivery of E9-1-1 calls . . . to the PSAP." The  
14 customer would continue to receive calls through its existing local exchange  
15 carrier providing telephone exchange service for the customer's private switch.

16 In addition, in order to qualify as an intercommunicating service, Intrado's  
17 Enterprise E9-1-1 Service would have to enable the customer to place a call to  
18 any and all other interconnected customers. This service, however, only allows  
19 the customer to make 911 calls to the PSAP. Calls to all other interconnected  
20 customers would be handled by the customer's existing local exchange carrier.

1   **Q.   DOES INTRADO'S ENTERPRISE E9-1-1 SERVICE HAVE THE KEY**  
2       **FEATURES OF A "COMPARABLE SERVICE" UNDER SUBPART (B)**  
3       **OF THE ACT'S DEFINITION OF "TELEPHONE EXCHANGE**  
4       **SERVICE"?**

5   A.   No. In order to qualify as a comparable service, Intrado's Enterprise E9-1-1  
6       Service would have to enable the customer both to originate calls *and* to terminate  
7       calls. Intrado's Enterprise E9-1-1 Service only terminates 911 calls, it does not  
8       originate them. As explained in Intrado's new rate sheet, the calls must be  
9       "originating from telephone stations/lines served by a multi-line private switch."<sup>48</sup>  
10      In addition, the customer's private switch "must be capable of forwarding ANI of  
11      a station/line served by Customer's private switch."<sup>49</sup> The forwarding of ANI for  
12      a 911 call from an Enterprise E9-1-1 Service customer's station or line is an  
13      originating function that the customer performs, not Intrado.

14             A comparable service must also enable the caller to connect to any other  
15      local telephone subscriber of his choosing. Intrado's Enterprise E9-1-1 Service  
16      does not provide this capability. As explained above, Intrado's service only  
17      allows the customer to make 911 calls to the PSAP. Calls to all other  
18      interconnected customers would be handled by the customer's existing local  
19      exchange carrier.

---

<sup>48</sup> See Exhibit DP-6 (Section 5.4.1).

<sup>49</sup> See Exhibit DP-6 (Section 5.4.1.C).

1                   **VI.       OTHER STATE COMMISSION DECISIONS**

2   **Q.   HAS THE FLORIDA STATE COMMISSION DETERMINED THAT**  
3       **INTRADO’S “EMERGENCY SERVICES” ARE NOT “TELEPHONE**  
4       **EXCHANGE SERVICE” OR “EXCHANGE ACCESS”?**

5   A.   Yes. In proceedings in Florida, Intrado sought Section 251(c) interconnection  
6       from AT&T and Embarq for the same emergency services for which its seeks  
7       Section 251(c) interconnection with Verizon. The Commission closed those  
8       dockets after ruling that Intrado was not entitled to Section 251(c) interconnection  
9       for its emergency services.<sup>50</sup> The Commission explained that “§251(c) is  
10      applicable when an entrant seeks interconnection arrangements with an ILEC in  
11      order to offer telephone exchange service and exchange access.”<sup>51</sup> Intrado  
12      admitted that its emergency service is not exchange access service,<sup>52</sup> so the  
13      Commission had to determine whether Intrado’s emergency service was  
14      “telephone exchange service.” The Commission concluded that for a service to  
15      be a telephone exchange service under Section 153(47) of the Act, “it must  
16      provide for both the origination and termination of calls.”<sup>53</sup> The Commission  
17      found that Intrado’s emergency service does not satisfy this statutory criterion,  
18      because it cannot originate calls: “Intrado Comm’s Intelligent Emergency  
19      Network is a service that allows a PSAP to receive emergency calls . . . . Intrado

---

<sup>50</sup> See *AT&T/Intrado Order* at 2; see also Exhibit DP-8, *Petition by Intrado Comm., Inc. for Arbitration of Certain Rates, Terms, and Conditions for Interconnection and Related Arrangements with Embarq Florida, Inc., Pursuant to Section 252(b) of the Comm. Act of 1934, as Amended*, Final Order No. PSC-08-0799-FOF-TP at 8 (Dec. 3, 2008) (“*Embarq/Intrado Order*”).

<sup>51</sup> *Embarq/Intrado Order* at 6; see also *AT&T/Intrado Order* at 7.

<sup>52</sup> See *AT&T/Intrado Order* at 2.

<sup>53</sup> *AT&T/Intrado Order* at 5; *Embarq/Intrado Order* at 4.

1 Comm provides a service that cannot be used to originate a call.”<sup>54</sup> The  
2 Commission explained: “The Intelligent Emergency Network does not offer a  
3 PSAP the ability to call back a 911/E911 user, and administrative lines not offered  
4 by Intrado Comm would be required to place such a call.”<sup>55</sup> The Commission  
5 rejected Intrado’s arguments that its service could be used to originate calls and  
6 that it otherwise satisfied the definition of “telephone exchange service” for  
7 purposes of Section 251(c) interconnection.<sup>56</sup>

8

9 **Q. HAS THE ILLINOIS STATE COMMISSION DETERMINED THAT**  
10 **INTRADO’S “EMERGENCY SERVICES” ARE NOT “TELEPHONE**  
11 **EXCHANGE SERVICE”?**

12 A. Yes. In Intrado’s arbitration with AT&T in Illinois, the Illinois Commerce  
13 Commission issued an order concluding that Intrado’s proposed 911 service is not  
14 telephone exchange service within the meaning of the federal definition and as a  
15 result Intrado is not entitled to Section 251(c) interconnection:

16 Intrado’s 911 service is not telephone exchange service within the  
17 meaning of the federal definition in §153(47). It does not enable  
18 its PSAP customers to originate calls, as required by Part B of that  
19 definition. It does not facilitate intercommunication, whether by  
20 its PSAP customers or by the end-users initiating emergency calls,  
21 as required by Parts A and B of that definition. . . . Based on the  
22 foregoing conclusions, AT&T has no duty to interconnect with  
23 Intrado under subsection 251(c)(2) of the Federal Act.<sup>57</sup>

24 There was, therefore, no need for the Illinois Commission to reach the parties’  
25 disputes about proposed interconnection agreement terms, because those disputes

---

<sup>54</sup> *AT&T/Intrado Order* at 4-5; *Embarq/Intrado Order* at 4.

<sup>55</sup> *AT&T/Intrado Order* at 5; *Embarq/Intrado Order* at 4.

<sup>56</sup> *AT&T/Intrado Order* at 5; *Embarq/Intrado Order* at 4.

<sup>57</sup> *Ill. Order* at 21.

were “rendered moot and superfluous” by the conclusion that Intrado is not entitled to Section 251(c) interconnection.<sup>58</sup>

3

VII. CONCLUSION

4 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

5 A. Yes.

<sup>58</sup> *Ill. Order* at 25.


COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Dauphin


§  
§  
§

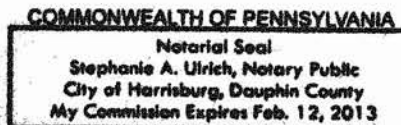
**BEFORE ME**, the undersigned authority, on this day personally appeared Don Price, who, having been placed under oath by me, did depose as follows:

My name is Don Price. I am of legal age and a resident of the State of Texas. The foregoing direct testimony and the attached exhibits offered by me are true and correct, and the opinions stated therein are accurate, true and correct.

  
Don Price

**SUBSCRIBED AND SWORN TO BEFORE ME** by the said Don Price this  
14th day of April, 2010.

  
Notary Public, Commonwealth of Pennsylvania



**Exhibit DP-1**

**Section 5 Intrado Texas Rate Sheet No. 1**



**TITLE PAGE**

**TEXAS  
LOCAL AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES RATE SHEET  
OF  
Intrado Inc.**

This rate sheet contains the descriptions, regulations, and rates applicable to the provision of local and interexchange telecommunications services provided by Intrado Inc. with principal offices at 1601 Dry Creek Drive, Longmont, CO 80503 for services furnished within the State of Texas. This rate sheet is on file with the Texas Public Service Commission, and copies may be inspected, during normal business hours, at the Company's principal place of business.

---

Issued: June 10, 2008  
By:

Craig Donaldson, Senior Vice President – Regulatory Affairs  
1601 Dry Creek Drive  
Longmont, CO 80503

Effective: June 10, 2008

TX10801

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**TABLE OF CONTENTS**

Title Page .....	Title
Preface	
Table of Contents .....	1
Check Sheet .....	2
Explanation of Symbols .....	4
Rate Sheet Format .....	5
Definitions .....	Section 1
Regulations .....	Section 2
Service Areas .....	Section 3
Service Charges and Surcharges .....	Section 4
Emergency Services .....	Section 5
Special Arrangements .....	Section 6
Promotional Offerings .....	Section 7

Intrado Inc.

Texas Rate Sheet No. 1

Preface

1<sup>st</sup> Revised Page 2

Cancels Original Page 2

**CHECK SHEET**

Pages of this rate sheet, as indicated below, are effective as of the date shown at the bottom of the respective pages. Original and revised pages, as named below, comprise all changes from the original rate sheet and are currently in effect as of the date on the bottom of this page.

SECTION	PAGE	REVISION	SECTION	PAGE	REVISION
	Title	Original	2	12	Original
Preface	1	Original	2	13	Original
Preface	2	1 <sup>st</sup> Revised *	2	14	Original
Preface	3	Original	2	15	Original
Preface	4	Original	2	16	Original
Preface	5	Original	2	17	Original
1	1	Original	2	18	Original
1	2	Original	2	19	Original
1	3	Original	2	20	Original
1	4	Original	2	21	Original
1	5	Original	2	22	Original
1	6	Original	2	23	Original
1	7	Original	2	24	Original
1	8	Original	2	25	Original
1	9	Original	2	26	Original
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2	1	Original	2	28	Original
2	2	Original	2	29	Original
2	3	Original	2	30	Original
2	4	Original	2	31	Original
2	5	Original	2	32	Original
2	6	Original	2	33	Original
2	7	Original	2	34	Original
2	8	Original	2	35	Original
2	9	Original	2	36	1 <sup>st</sup> Revised *
2	10	Original			
2	11	Original			

\* - indicates those pages included with this filing

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1601 Dry Creek Drive  
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TX10801

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CHECK SHEET, (CONT'D.)

SECTION	PAGE	REVISION	
3	1	Original	*
4	1	Original	*
4	2	Original	*
5	1	Original	*
5	2	Original	*
5	3	Original	*
5	4	Original	*
5	5	Original	*
5	6	Original	*
5	7	Original	*
5	8	Original	*
5	9	Original	*
5	10	Original	*
5	11	Original	*
5	12	Original	*
6	1	Original	*
6	2	Original	*
6	3	Original	*
6	4	Original	*
7	1	Original	*

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1601 Dry Creek Drive  
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### EXPLANATION OF SYMBOLS

The following symbols shall be used in this rate sheet for the purpose indicated below:

- (C) To signify changed regulation.
- (D) To signify discontinued rate or regulation.
- (I) To signify increased rate.
- (M) To signify a move in the location of text.
- (N) To signify new rate or regulation.
- (R) To signify reduced rate.
- (S) To signify reissued matter.
- (T) To signify a change in text but no change in rate or regulation.

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TX10801

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**SECTION 5 –EMERGENCY SERVICES****5.1 Intelligent Emergency Network® Services**

Intelligent Emergency Network Services are telecommunications services that permit a PSAP to receive emergency calls placed by callers dialing the number 9-1-1 and/or emergency calls originated by personal communications devices.

Intelligent Emergency Network Services support interconnection to other telecommunications service providers for the purpose of receiving emergency calls originated in their networks. Intelligent Emergency Network Services include 9-1-1 call routing and transfer services, which use a call management system to either directly perform the selective routing of an emergency call to the appropriate PSAP, or may be used to hand-off the call to a separate 9-1-1 Service Provider (possibly a legacy 9-1-1 selective router) for call completion to the appropriate PSAP. Intelligent Emergency Network Services also provide call bridging and post call activity reporting.

Intelligent Emergency Network Services includes a comprehensive data management and delivery service; i.e., ALI Management Services. ALI Management Services gives PSAPs more control over ALI data management by providing highly accurate data and superior reporting. ALI Management Services was developed specifically to allow customers to optimize their 9-1-1 operations. ALI Management Services offers superior features such as “drill down” metric reporting capabilities for wireline, wireless, and VoIP 9-1-1 calls, and an easy to use web interface for data queries and MSAG management.

Intelligent Emergency Network Services are offered subject to the availability of facilities. The Customer is the Governing Authority that orders service and is responsible for the payment of charges and for compliance with the terms and conditions of this rate sheet.

Intelligent Emergency Network Services customers may include a Local Exchange Carrier (LEC), Wireless Services Provider (WSP), a Telematics-type service provider, VoIP Service Provider (VSP) or any other originating communications provider (voice and/or data) requiring aggregation and termination of calls and/or data information to the 9-1-1 network for the purpose of obtaining or delivering emergency services.

Intelligent Emergency Network Services are only available under contract with a minimum term agreement of one year.

**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.1 Intelligent Emergency Network Services, (Cont'd.)****5.1.1 9-1-1 Routing Service**

9-1-1 Routing Service is a public safety grade, specialized managed network for processing 9-1-1 calls that allows the PSAP to accommodate new technologies while simultaneously enabling more control over 9-1-1 call routing operations. The Company's solution utilizes a fully redundant, secure IP infrastructure. Facilities and nodes are geographically diverse and are equipped with physically redundant data communications and power equipment that allow for continuous operation and high reliability. 9-1-1 Routing Service delivers emergency calls from both traditional and non-traditional voice networks. In addition to processing traditional TDM voice traffic, 9-1-1 Routing Service also provides IP based call processing capabilities.

9-1-1 Routing Service facilitates interoperability and allows for specialized management of different call types. The customer can designate, capture, and report on specific instructions for handling each call type:

**Wireline:** Supports traditional wireline emergency calls originating from an end office, central office and/or enterprise private branch exchange (PBX) over standard based Centralized Automatic Message Accounting (CAMA), both analog and digital interfaces, SS7 and PRI interfaces.

**Wireless:** Supports delivery of wireless 9-1-1 calls to assigned PSAPs. Carriers having the capability to provide wireless handset ANI, cell site, sector and/or longitudinal and latitudinal (x,y) coordinates in the appropriate format, may connect directly to the 9-1-1 Routing Service.

**VoIP:** Supports delivery of VoIP emergency calls originating from a VoIP Service Provider. VoIP Service Providers capable of providing calls and data in the appropriate format can connect directly to the 9-1-1 Routing Service.

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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.1 Intelligent Emergency Network Services, (Cont'd.)****5.1.2 9-1-1 Routing Service Features****A. Automatic Number Identification (ANI)**

ANI is the feature by which the telephone number or other related routing number associated with an inbound 9-1-1 caller (i.e.; pANI) is received by Intelligent Emergency Network Services and passed on to the proper PSAP. The ANI is also used to determine the proper PSAP to receive the inbound call.

**B. 9-1-1 Routing Options****Selective Routing**

The routing of a 9-1-1 call to the proper PSAP based upon the location of the caller. Selective Routing is typically accomplished by mapping the ANI to an ESN that has been derived based on the caller's location. The ESN maps to a specific routing rule that identifies the proper PSAP and possible alternative destinations.

**Trunk Only Routing**

Inbound trunks, typically from a given telecommunications carrier, can be designated to route all calls to a given destination, usually a specific PSAP. If Trunk Only Routing is not specified the system will attempt to perform Selective Routing.

**Default Routing**

When an incoming 9-1-1 call cannot be selectively routed because the ANI number is not stored in the selective router data base, is unintelligible, or when no ANI number is received, a predetermined call route will be chosen and the caller will be terminated to a PSAP based upon the incoming trunk facility over which the call is received.

**PSAP Abandonment Routing**

If a PSAP must be closed or evacuated, the PSAP Abandonment Routing feature provides routing instructions for delivery of calls to an alternate location.



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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.1 Intelligent Emergency Network Services, (Cont'd.)****5.1.2 9-1-1 Routing Service Features, (Cont'd.)****C. 9-1-1 Transfer Options****Fixed Transfer**

Fixed Transfer is a feature which enables a PSAP call taker to transfer a 9-1-1 call to a secondary destination (possibly another PSAP) by dialing a pre-assigned speed-dial code or by using a single button speed-dial capability on an approved customer telephone system that dials the appropriate code for the transfer destination.

**Selective Call Transfer**

The Selective Call Transfer feature enables a PSAP call taker to transfer an incoming 9-1-1 call to another emergency service agency by dialing a pre-assigned speed dial code or by using a single button speed-dial capability to dial the appropriate for the emergency service agency; the transfer destination is determined by the 9-1-1 caller's originating location as specified by the ESN.

**Manual Transfer**

A PSAP call taker may transfer an incoming call manually by depressing the hook switch of the associated telephone or the "add" button on an approved customer telephone system, and dialing an appropriate seven or 10-digit telephone number.

**Overflow Call Disposition**

When all PSAP trunks are busy, the Overflow Call Disposition feature routes 9-1-1 calls to a previously designated alternate call center, or to a prerecorded message.

**D. Call Event Logging**

The Call Event Logging feature logs the ANI received from a 9-1-1 call, the identity of the incoming trunk over which the Selective Router received the call, the identity of the outgoing PSAP trunk to which the call is terminated, and the date and time the call was delivered to its target destination, transferred or disconnected.

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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.1 Intelligent Emergency Network Services, (Cont'd.)****5.1.3 ALI Management Service****A. MSAG Management**

A data management and administration tool that automatically makes appropriate updates, insertions, and deletions to the MSAG database.

**B. MSAG Build Services**

The Company acts as the facilitator, in conjunction with the addressing authority, to create and maintain the MSAG utilizing recognized National Emergency Number Association (NENA) standards.

**C. English Language Translation (ELT) Management**

ELT Management provides the names of fire, emergency medical services (EMS) and police jurisdictions associated with each ESN so it can be delivered along with the ALI to the appropriate PSAPs at the time of the E9-1-1 call. The requests are validated for accuracy and either updated into the database, or referred back to the PSAP for resolution. Upon completion of the transaction, notification is provided to the customer

**D. Subscriber Record Management**

Subscriber Record Management is the collection of service order records from Telephone Service Providers (TSPs), validation of those records against the MSAG, and storage of the records to be used to generate the ALI database.

**E. ALI Database Updates**

After processing and validating subscriber record updates, the Company posts the updated records to the ALI database for call routing and for retrieval and display by the PSAP during 9-1-1 calls.

**F. ANI/ALI Discrepancy Resolution**

An ANI/ALI discrepancy occurs when an ALI record delivered to a PSAP does not match the information of the caller. The Company investigates all ANI/ALI discrepancy reports and refers each discrepancy to the appropriate TSP for resolution.

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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.1 Intelligent Emergency Network Services, (Cont'd.)****5.1.3 ALI Management Services, (Cont'd.)****G. Misroute Resolution**

An ANI/ALI misroute occurs when a 9-1-1 call is delivered to the incorrect PSAP. All ANI/ALI misroute reports are investigated each misroute referred to the appropriate TSP for resolution.

**H. No Record Found (NRF) Resolution**

An NRF occurs when the ANI provided does not exist in the ALI database and/or when “NRF” is displayed at the PSAP. Each NRF is investigated and referred to the appropriate TSP for resolution.

**I. Local Number Portability (LNP) Processing**

The Intelligent Emergency Network supports LNP, which allows subscribers to switch from one TSP to another without changing their phone numbers.

**J. ALI Delivery**

ALI Delivery provides location information via the ALI Data Access Connections (see Section 5.1.5) to a PSAP during a 9-1-1 call.

**K. Data Support of Wireless and VoIP E9-1-1**

Intelligent Emergency Network database management systems support both Phase I and Phase II wireless and VoIP E9-1-1 call processing. This includes the E2 interface used by wireless service providers to communicate 9-1-1 caller location information to the ALI database.

**L. ALI Metrics Reporting**

The Intelligent Emergency Network provides access to reports that provide details on data transactions, the number of records processed, and the number of errors.

## **SECTION 5 – EMERGENCY SERVICES, (CONT'D.)**

### **5.1 Intelligent Emergency Network Services, (Cont'd.)**

#### **5.1.4 9-1-1 Exchange Access**

9-1-1 Exchange Access provides one way call delivery trunks from the 9-1-1 Routing Service to the PSAP. The 9-1-1 Exchange Access trunks are conditioned to allow delivery of ANI to the PSAP. These trunks also allow signaling from the PSAP to the 9-1-1 Routing Service to invoke special features of the 9-1-1 Routing Service such as transfer, speed dialing, etc.

#### **5.1.5 ALI Data Access Connections**

ALI Data Access Connections provide the PSAP network access to the ALI Database for ALI Delivery.

#### **5.1.6 Diverse Facility Routing**

Where facilities exist and a Customer wishes to subscribe to such services, Intrado will arrange for diverse routing over alternate voice and/or data paths to reduce the potential for service failure as a result of an Interruption of transport facilities.

Diverse routing is supplied to the extent made possible as determined by the availability of current facilities. Diversity at customer locations and additions to existing facilities to obtain diversity, where feasible within E9-1-1 network and as determined by the respective facility provider, will be based upon the costs incurred by the respective facility provider and will be supplied upon customer request.

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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.2 Intelligent Emergency Network Rules & Regulations**

- 5.2.1** The Intelligent Emergency Network Customer may be a municipality, other federal, state or local governmental unit, an authorized agent of one or more municipalities, or other federal, state or local governmental units to whom authority has been lawfully delegated. The Customer must be legally authorized to subscribe to the service and have public safety responsibility by law to respond to telephone calls from the public for emergency police, fire or other emergency services within the served territory.
- 5.2.2** Intelligent Emergency Network Service is provided by the Company where facilities and operating conditions permit.
- 5.2.3** Intelligent Emergency Network Service is not intended to replace the local telephone service of the various public safety agencies which may participate in the use of this service.
- 5.2.4** Application for Intelligent Emergency Network service must be executed in writing by the Customer. If execution is by an agent, satisfactory evidence of the appointment must be provided in writing to the Company. At least one local law enforcement agency must be included among the participating agencies.
- 5.2.5** Intelligent Emergency Network Service is provided solely for the benefit of the Customer operating the PSAP as an aid in handling assistance calls in connection with fire, police and other emergencies. The provision of Intelligent Emergency Network Service by the Company shall not be interpreted, construed, or regarded, either expressly or implied, as being for the benefit of or creating any relationship with or any Company obligation direct or indirect, to any third person or legal entity other than the Customer.
- 5.2.6** The Company does not undertake to answer and/or forward 9-1-1 or other emergency calls, but furnishes the use of its facilities to enable the Customer's personnel to respond to such calls.

**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)**

**5.2 Intelligent Emergency Network Rules & Regulations, (Cont'd.)**

- 5.2.7** The rates charged for Intelligent Emergency Network Service do not contemplate the inspection or constant monitoring of facilities to discover errors, defects and malfunctions in the service, nor does the Company undertake such responsibility. The Customer shall make such operational tests as, in the judgment of the Customer, are required to determine whether the system is functioning properly for its use. The Customer shall promptly notify the Company in the event the system is not functioning properly.
- 5.2.8** The Company's liability for any loss or damage arising from errors, Interruptions, defects, failures, or malfunctions of this service or any part thereof shall not exceed an amount equivalent to the pro rata charges for the service affected during the period of time that the service was fully or partially inoperative.
- 5.2.9** The Customer must furnish the Company its agreement to the following terms and conditions.
- A.** That all 9-1-1 or other emergency calls will be answered on a 24-hour day, seven-day week basis.
  - B.** That the Customer has responsibility for dispatching the appropriate emergency services, or will undertake to transfer all emergency calls received to the governmental agency with responsibility for dispatching such services, to the extent that such services are reasonably available.
  - C.** That the Customer will develop an appropriate method for responding to calls for nonparticipating agencies which may be directed to their PSAP by calling parties.
  - D.** That the Customer will subscribe to local exchange service at the PSAP location for administrative purposes, for placing outgoing calls, and for receiving other calls.

**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)**

**5.2 Intelligent Emergency Network Rules & Regulations, (Cont'd.)**

**5.2.10** When the ALI Management Service is provided, the Customer is responsible to:

- A. Provide information regarding the jurisdictional boundaries associated with all involved public safety agencies.
- B. Support the creation of a master address file for use in validating subscriber address information and application of appropriate jurisdictional responsibility.
- C. Define the unique combinations of public safety agencies (police, fire, medical, etc) responsible for providing emergency response services in any specific geographic location.

**5.2.11** When the 9-1-1 Routing feature is provided, the Customer is responsible for identifying primary and secondary PSAPs associated with the unique combinations noted in Section 5.2.10.C above and providing the access or telephone numbers required to support the selective transfer feature of 9-1-1 Routing service.

**5.2.12** After establishment of service, it is the Customer's responsibility to continue to verify the accuracy of the routing information contained in the master address file, and to advise the Company of any changes in street names, establishment of new streets, closing and abandonment of streets, changes in police, fire, emergency medical or other appropriate agencies' jurisdiction over any address, annexations and other changes in municipal and county boundaries, incorporation of new cities or any other matter that will affect the routing of 9-1-1 calls to the proper PSAP.

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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.2 Intelligent Emergency Network Rules & Regulations, (Cont'd.)**

**5.2.13** The following terms define the Customer's responsibilities with respect to any information provided by the Company to the Customer as part of ALI Management Service:

- A. Such information shall be used by the Customer solely for the purpose of aiding the Customer in more accurately identifying, updating and/or verifying the addresses of subscribers within the Customer's serving areas in connection with the Customer's provision of emergency response services.
- B. Customer shall strictly limit access to the information to those authorized employees of the Customer with a need to know and those employees actually engaged in the provision of emergency assistance services.
- C. Customer shall use due care in providing for the security and confidentiality of the information.
- D. Customer shall make no copies of the information except as may be essential for the verification of emergency assistance services.

**5.2.14** Each Customer agrees to release, indemnify, defend and hold harmless the Company from any and all loss, claims, demands, suits, and other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or person: (1) for any personal injury to or death of any person or persons, or for any loss, damage or destruction of any property, whether owned by the Customer or others, and which arises out of the negligence or other wrongful act of the Company, the Customer, its user agencies or municipalities or employees or agents of any one of them, or (2) for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of Intelligent Emergency Network service features and the equipment associated therewith, including, but not limited to, the identification of the telephone number, address, or name associated with the telephone number used by the party or parties accessing Intelligent Emergency Network service hereunder, or (3) arising out of any act or omission of the Customer, in the course of using services provided pursuant to this rate sheet.



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**SECTION 5 – EMERGENCY SERVICES, (CONT'D.)****5.3 Intelligent Emergency Network Service Rates and Charges**

	<u>Nonrecurring Charge</u>	<u>Monthly Charge</u>
9-1-1 Routing Service	ICB	ICB
ALI Management Services	ICB	ICB
9-1-1 Exchange Access Trunks	ICB	ICB
ALI Data Access Connections	ICB	ICB
Diverse Facility Routing	ICB	ICB

**Notes:**

1. Additional charges may be rendered by other local exchange carriers in connection with the provisioning of E911 service to the Customer.
2. 9-1-1 Routing Services and ALI Management Services are provided as a package. Customer requests to obtain these services separately will be handled individually.
3. ICB pricing to be determined based upon unique service configuration requirements for each customer including, but not limited to, term of agreement, volume of subscribers served, and proximity of customer to company facilities.

Issued: June 10, 2008

By:

Craig Donaldson, Senior Vice President – Regulatory Affairs  
1601 Dry Creek Drive  
Longmont, CO 80503

Effective: June 10, 2008

TX10801

**Exhibit DP-2**

***Petition by Intrado Comm., Inc. for Arbitration of Certain Rates, Terms, and Conditions for Interconnection and Related Arrangements with BellSouth Telecomm., Inc. d/b/a AT&T Florida, Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, Docket No. 070736-TP, Final Order No. PSC-08-0798-FOF-TP at 2 (Dec. 3, 2008)***

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with BellSouth Telecommunications, Inc. d/b/a AT&T Florida, pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C.

DOCKET NO. 070736-TP  
ORDER NO. PSC-08-0798-FOF-TP  
ISSUED: December 3, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

FINAL ORDER

BY THE COMMISSION:

**I. Case Background:**

On December 21, 2007, Intrado Communications, Inc. (Intrado Comm) filed a Petition for Arbitration of certain rates, terms, and conditions for interconnection and related arrangements with BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T), pursuant to Section 252(b) of the Communications Act of 1934, as amended<sup>1</sup> (Act), and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, Florida Statutes (F.S.), and Rule 28-106.201, Florida Administrative Code (F.A.C.). An evidentiary hearing was held on July 10, 2008.

We are vested with jurisdiction over this subject matter by the provisions of Chapters 364 and 120, F.S.

<sup>1</sup> Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. §§ 151, et seq. (1996)).

DOCUMENT NUMBER-DATE

11136 DEC-3 8

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ORDER NO. PSC-08-0798-FOF-TP  
 DOCKET NO. 070736-TP  
 PAGE 2

## II. Analysis:

### A. Intrado Comm service offering

We examine Intrado Comm's service offering, which involves the provision of 911/E911 service to Public Safety Answering Points (PSAPs)<sup>2</sup> and government entities. An important consideration is whether Intrado Comm's service offering meets the definition of a "telephone exchange service," as the term is defined in §3 of the Act.

#### **SEC. 3. [47 U.S.C. 153] DEFINITIONS.**

(47) TELEPHONE EXCHANGE SERVICE.--The term "telephone exchange service" means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

Intrado Comm believes its "Intelligent Emergency Network"<sup>TM</sup> service meets this definition. AT&T disagrees with Intrado Comm's assertion. This determination is key to whether AT&T (as an incumbent local exchange carrier) must enter into an interconnection agreement with Intrado Comm pursuant to the obligations set forth in §251(a) or in §251(c) of the Act. Further arguments are summarized below.

#### Parties' Arguments

Intrado Comm contends that when it provides its end-to-end 911/E911 service offering to Florida public safety agencies, Intrado Comm provides telephone exchange service. AT&T contends that this service does not constitute telephone exchange service or exchange access service. AT&T asserts that Intrado Comm is offering a service that does not serve the end users who place 911/E911 calls, but rather aggregates the 911/E911 traffic from end users of other carriers to deliver to Intrado Comm's customer, which is a PSAP. The parties agree that Intrado Comm will be offering alternative 911/E911 service to Florida counties, public safety agencies and PSAPs, but they disagree whether the service should be classified as a telephone exchange service.

Intrado Comm witness Hicks<sup>3</sup> admits that its service is not exchange access service but states that Intrado Comm will provide telephone exchange service to PSAPs. The FCC has stated that exchange access service involves traffic originated in one exchange that terminates in

<sup>2</sup> For purposes of the "911" system, §365.172, F.S., defines an "[a]nswering point" to mean "the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls."

<sup>3</sup> Intrado Comm witness Thomas Hicks adopted the pre-filed testimony of Carey Spence-Lenss, who was unable to attend the hearing.

ORDER NO. PSC-08-0798-FOF-TP  
 DOCKET NO. 070736-TP  
 PAGE 3

another exchange.<sup>4</sup> Therefore, AT&T argues that because Intrado Comm has admitted that it will not offer exchange access, the only remaining issue is whether Intrado Comm will offer telephone exchange service. Intrado Comm witness Hicks testified that:

251 telephone exchange traffic is predicated on the fact that facsimile lines are basically one-way lines . . . that have been considered to be telephone exchange service . . . basically the services that Intrado [Comm] intends to provide provides two-way voice communications.

AT&T asserts that because the service that Intrado Comm intends to provide to PSAPs cannot be used to originate calls, this service does not qualify as telephone exchange service.

Intrado Comm asserts that the FCC determined that "telephone exchange service [is] not limited to traditional voice telephony, but include[s] non-traditional means of communicating information within a local area."<sup>5</sup> Intrado Comm notes that the FCC has also stated that "a key component of telephone exchange service is 'intercommunication' among subscribers within a local exchange area."<sup>6</sup> Intrado Comm argues that its service fulfills the FCC stated component of intercommunication because it allows 911/E911 users to be connected with PSAPs and communicate with local emergency personnel. Furthermore, Intrado Comm points out that AT&T's own tariff refers to its 911/E911 service as a telephone exchange service.<sup>7</sup>

AT&T contends that to qualify as a telephone exchange service, the service must be within an exchange boundary and capable of both originating and terminating intraexchange calls. AT&T argues that the service Intrado Comm intends to provide PSAPs does neither. AT&T states that Intrado Comm's own tariff filing indicates that it "is not responsible for the provision of local exchange service to its Customers." AT&T believes this is significant because Intrado Comm asserts that it does not intend to replace all of a PSAP's local exchange services, acknowledging that a PSAP or a Florida county may subscribe to additional local exchange service for placing administrative calls. An administrative call is made from an administrative line that is connected to the PSAP system, which can call out to the public switched telephone network.

Intrado Comm further argues that it is requesting an interconnection agreement from AT&T for the mutual exchange of traffic. Intrado Comm contends that while 911/E911 trunks are generally one-way trunks, a "mutual exchange of traffic" need not occur over the same trunk.

<sup>4</sup> *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385 (1999) (Order on Remand) ¶35.

<sup>5</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385, ¶ 17 (1999) ("Advanced Services Order").

<sup>6</sup> Advanced Services Order ¶ 30.

<sup>7</sup> The AT&T tariff states that "911 service is a telephone exchange communication service whereby a PSAP designed by the customer may receive telephone calls to the telephone number 911 . . . [and] includes lines and equipment necessary for the answering, transferring and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911."

ORDER NO. PSC-08-0798-FOF-TP  
DOCKET NO. 070736-TP  
PAGE 4

Intrado Comm asserts that this exchange may be “properly reflected by traffic flows of originating and terminating traffic” through trunking configurations. Intrado Comm believes the FCC has lent credence to its argument. Specifically, Intrado Comm cites the FCC’s finding that established “intercommunication” as a hallmark for telephone exchange service. In doing so, Intrado Comm argues that the FCC recognized that without interconnection between an ILEC and an entrant, a customer would not be able to complete calls. Intrado Comm further argues that the FCC found that an ILEC has little incentive to aid new entrants’ entry into the marketplace, which is a matter Congress addressed in §251(c). Intrado Comm notes that AT&T witness Pellerin stated that a competitor must be interconnected with the Public Switched Telephone Network in order to provide 911/E911 service, which offers further support that Intrado Comm provisions telephone exchange service because entrants must be allowed to effectively compete.

Intrado Comm witness Hicks states that the “services that the PSAP uses would only be able to generate and originate a call transfer. They would not be able to utilize Intrado Comm’s offering to generate a traditional local call.” AT&T argues that Intrado Comm witness Hicks admits that Intrado Comm’s service cannot be used to originate a call. AT&T states that Intrado Comm’s inability to call back to a disconnected 911/E911 caller indicates that the 911/E911 service cannot be used to originate a call, and therefore does not meet the definition of telephone exchange service.

#### Analysis

The term “service” is central to this case. Both parties acknowledge that Intrado Comm offers a service, but differ as to what type of service is being offered. Establishing the nature of the service Intrado Comm is offering is important to determine whether Intrado Comm and AT&T should enter into an arrangement under §251(a), a general contract, or §251(c), an interconnection agreement. Section 251(c) specifically provides for an interconnection agreement between a competitive local exchange carrier and an incumbent local exchange carrier, whereas §251(a) allows for a general contract, commonly referred to as a commercial agreement. Section 251(c) imposes specific, asymmetric obligations on ILECs. Section 252 gives rise to an interconnection agreement incorporating the §251(c) obligations.

#### 911/E911 Service

Section 365.172(3)(i), F.S., defines E911 service as the “enhanced 911 system or enhanced 911 service that is an emergency telephone system or service that provides a subscriber with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated.” Both Intrado Comm and AT&T agree that Intrado Comm will provide its services as a competitive 911/E911 provider. Upon Intrado Comm’s entry into the marketplace, PSAPs will have the opportunity to choose an alternate 911/E911 service provider.

#### Telephone Exchange Service

Intrado Comm’s Intelligent Emergency Network™ is a service that allows a PSAP to receive emergency calls. By identifying its service as “telephone exchange service” because it



ORDER NO. PSC-08-0798-FOF-TP  
DOCKET NO. 070736-TP  
PAGE 5

“allows Florida consumers to be connected with PSAPs and communication with local emergency personnel,” Intrado Comm attempts to interpret 47 U.S.C. 153(47) to fit its own circumstances. 47 U.S.C. 153(47) defines “telephone exchange service” as one which can *both* originate and terminate calls. However, in the current service offering, Intrado Comm provides a service that cannot be used to originate a call. Intrado Comm witness Hicks states that Intrado Comm both originates and terminates calls from a 911/E911 caller because Intrado Comm can transfer calls from one PSAP to another PSAP. Intrado Comm witness Hicks, however, also admitted that the PSAP would not be able to call out with its service, which means that an outbound call cannot be placed unless a separate administrative local line is used.

We find that in order for a service to be considered a telephone exchange service, pursuant to 47 U.S.C. 153(47), it must provide for both the origination and termination of calls. Without the ability both to originate and terminate calls, Intrado Comm’s proposed services do not meet the definition of “telephone exchange service.” The Intelligent Emergency Network™ does not offer a PSAP the ability to call back a 911/E911 user, and administrative lines not offered by Intrado Comm would be required to place such a call.

**B. AT&T’s requirement to offer interconnection under §251(c)**

This section focuses on whether AT&T is required to offer interconnection to Intrado Comm under §251(a) or §251(c) of the Act. Section 251(a) of the Act describes the general duty of all telecommunications carriers to interconnect, while §251(c) addresses specific obligations imposed only on incumbent local exchange carriers (ILECs). Two aspects of §251(c) are particularly significant:

- Section 251(c)(2) includes a reference to “telephone exchange service;” and
- Section 251(c)(3) addresses the ILEC’s obligation to provide access to unbundled network elements (UNEs). In essence, this concern is a “rates” issue since AT&T would be obligated to offer these UNEs to Intrado Comm at Total Element Long-Run Incremental Cost (TELRIC) based rates, as opposed to the more general pricing standard applicable to items provided pursuant to §251(a).

Intrado Comm contends that a §251(c) agreement is appropriate since its service offering meets the definition of “telephone exchange service.” It believes AT&T is obligated to offer it cost-based, unbundled access to the elements it wants pursuant to §251(c) of the Act. AT&T disagrees with both assertions.

AT&T believes Intrado Comm’s “Intelligent Emergency Network”™ service is not a “telephone exchange service,” and as such, the consideration of interconnection with Intrado Comm pursuant to §251(c) is moot. AT&T summarily contends that Intrado Comm is not providing “telephone exchange service” subject to any portion of §251(c), and is therefore not entitled to a §251(c) interconnection agreement. AT&T further states that “the proper denial of this request obviates the need to entertain any of the other issues in this proceeding.”

Parties' Arguments

Intrado Comm contends that it cannot offer 911/E911 service in Florida without interconnecting to the Public Switched Telephone Network under §251(c). AT&T disputes this claim, stating that Intrado Comm can purchase wholesale services through commercial agreements negotiated pursuant to §251(a). AT&T argues that Intrado Comm's emergency services are not telephone exchange service or exchange access. AT&T further argues that without telephone exchange service or exchange access offerings, it is not obligated to offer Intrado Comm rates and terms pursuant to §251(c).

Intrado Comm asserts that §251 and §252 were designed to allow competitors to enter the marketplace quickly and §252 specifically addresses interconnection on a level playing field. The benefit Intrado Comm believes §251(c) will provide it is a level playing field, the provision of service at TELRIC rates, and different connection standards that are established by the Act. Intrado Comm argues that it is a competitive local exchange carrier and, as such, is entitled to interconnection with AT&T pursuant to §251(c). AT&T counters that without offering both the origination and termination of calls, Intrado Comm does not offer telephone exchange service. Absent the provision of telephone exchange service, AT&T asserts that Intrado Comm may only negotiate pursuant to §251(a), not §251(c). AT&T further asserts that §251(c)(2)(A) provides that an ILEC has a duty to interconnect "for the transmission and routing of telephone exchange service and exchange access." Intrado Comm contends its right to interconnect pursuant to §251(c) is established because competitors are entitled to interconnect with ILECs.

Intrado Comm asserts that its proposed interconnection arrangements will ensure a level playing field for any alternative 911/E911 service providers. Intrado Comm contends that it is not required to enter into commercial agreements because of §251(c). Intrado Comm explains that a §251(c) interconnection agreement is its right as a CLEC and that leaving agreements to be made under §251(a) would be detrimental to the goals of the Act because it would favor AT&T over any other carrier, including any other providers of competitive 911/E911 service. Upon questioning from AT&T, Intrado Comm witness Hicks acknowledges that Intrado Comm chose to request a §251(c) interconnection agreement and that all of the services it desires could have been obtained through a commercial agreement. AT&T argues that because Intrado Comm's service to PSAPs cannot be used to originate calls, the service does not qualify as telephone exchange service and therefore does not qualify for interconnection pursuant to §251(c).

Analysis

Section 251 establishes the interconnection rights and obligations of telecommunications carriers, including local exchange telecommunications carriers. More specifically, §251(a) imposes a general obligation on all telecommunications carriers to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." Section 251(c) goes beyond the general obligation and imposes specific obligations on incumbent local exchange carriers (like AT&T) to allow interconnection by competing carriers on the incumbent's network.



ORDER NO. PSC-08-0798-FOF-TP  
DOCKET NO. 070736-TP  
PAGE 7

If Intrado Comm becomes the 911/E911 service provider to PSAPs, AT&T becomes the carrier requesting interconnection on Intrado Comm's network in order to provide access to 911/E911 to AT&T's end user customers. AT&T believes the requirements imposed on ILECs do not support the type of interconnection arrangements currently requested by Intrado Comm. AT&T would be in a situation where it would be both the ILEC providing interconnection and a carrier seeking access. This situation could present a serious disadvantage to AT&T, who would pay for Intrado Comm establishing its 911/E911 service. We are concerned that the costs for interconnection would be borne by AT&T. AT&T witness Pellerin expressed concern as well.

Intrado Comm seeks a §251(c) interconnection agreement with AT&T to gain access to the Public Switched Telephone Network to offer its competitive services to PSAPs throughout the State of Florida. However, we find that the service Intrado Comm intends to provide is not one that will both originate and terminate calls. We find that §251(c) applies when a telecommunications carrier requests interconnection with an ILEC such as AT&T to offer telephone exchange service and exchange access. However, §251(c) does not apply or impose specific obligations on an ILEC when the ILEC seeks interconnection on the CLEC's network. In its brief, Intrado Comm states that §251(c) plays a critical role in allowing it a "fair opportunity to compete in the Florida marketplace." Intrado Comm asserts that §251(c) provides it the ability to "obtain the interconnection and interoperability arrangements it needs to provide its 911/E911 service to Florida counties and PSAPs while, at the same time, promoting the reliability and redundancy critical to public safety."

Because Intrado Comm does not offer telephone exchange service, AT&T is not obligated to interconnect with Intrado Comm pursuant to §251(c). In addition, Intrado Comm has the ability to offer the services it wants without a §251(c) interconnection agreement through the use of a commercial agreement or AT&T's tariffs. Therefore, AT&T is not required to offer interconnection pursuant to §251(c).

Finally, we have arbitrated issues outside of §251(c) when both parties agreed to Commission action. To date, we have not reviewed any interconnection arrangements pursuant solely to §251(a).<sup>8</sup>

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<sup>8</sup> Recently, a similar issue was addressed by the Virginia State Corporation Commission (Virginia Commission), which deferred Intrado Comm's petition for arbitration to the FCC, stating the FCC should first decide whether Intrado Comm is entitled to §251(c) interconnection. *Petition of Intrado Comm. of Virginia, Inc. for Arbitration to Establish an Interconnection Agreement with Central Telephone Co. of Virginia d/b/a Embarq and United Tel.-Southeast, Inc. d/b/a Embarq, under Section 252(b) of the Telecommunications Act of 1996*, Order of Dismissal, Case No. PUC-2007-00112, at 2-3 (Feb. 14, 2008). As a result, Intrado Comm petitioned the FCC for resolution of the issues. *Petition of Intrado Comm. of Virginia Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corp. Commission Regarding arbitration of an Interconnection Agreement with Central Tel. Co. of Virginia and United Tel.-Southeast, Inc.*, FCC WC Docket No. 08-33, filed March 6, 2008. The FCC granted Intrado Comm's petition, preempting the jurisdiction of the Virginia Commission in a Memorandum Order and Opinion, issued October 16, 2008, *In the matter of Petition of Intrado Communications of Virginia Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Arbitration of an Interconnection Agreement with Verizon South Inc. and Verizon Virginia Inc.*, FCC WC Docket 08-185, stating that the Virginia Commission explicitly deferred action to the FCC.

ORDER NO. PSC-08-0798-FOF-TP  
DOCKET NO. 070736-TP  
PAGE 8

**C. Public Interest Considerations**

With the emergence of a competitive 911/E911 provider in the Florida marketplace, there may be potential unintended consequences that affect more than just the current parties to this docket, impacting all carriers in Florida, including wireless and VoIP providers. Most carriers are directed by statute to provide their end users access to 911/E911 service. These carriers may incur higher costs to access 911/E911 service or be forced to rehome circuits,<sup>9</sup> if a competitive provider's selective router is located outside of Florida. Intrado Comm currently has no selective routers in Florida, although it will eventually deploy a minimum of two selective routers within the state. We are concerned that carriers could potentially be transporting 911/E911 emergency calls up and down the state or perhaps even out of state. Intrado Comm witness Hicks states that it would be up to the connecting party to determine which points on Intrado Comm's network would be the most efficient for connection. The witness points out that AT&T currently has one selective router in each of the 10 LATAs AT&T serves in Florida.

Commission involvement in the provisioning of 911/E911 service is important because of the potential impact on the health and safety of Florida citizens. We note that 911/E911 service is an essential service in Florida. Pursuant to §364.01(4)(a), F.S., we are entrusted with protecting the public health, safety and welfare and must ensure access to basic local service, which includes access to 911/E911 service. It is imperative that access to 911/E911 service continue uninterrupted regardless of the 911/E911 service provider. We are further supported by the FCC which has acknowledged the importance of a state's role in 911/E911 matters.<sup>10</sup>

We find that this Commission is not the only agency or entity with an interest in monitoring of 911/E911 service. Intrado Comm witness Melcher acknowledges that 911/E911 service impacts many entities, stating that "[p]ublic safety deserves state of the art solutions and they should be able to pick and choose providers that offer products and services that best fit the needs and the budgets of those public safety communications professionals." At the hearing in Docket No. 070699-TP, this witness stated that:

Public safety is the customer. It's the public safety leaders that should be involved in the decision-making process. And what is so sad to me is that as these kinds of hearings are going on around the country today, the person not sitting at the table that needs to be represented is the public safety leader. They have to be provided choices, they have to be given options that they've not been given in the past.

AT&T witness Pellerin also acknowledged the multi-faceted nature of 911/E911 service, stating that:

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<sup>9</sup> Rehoming is when there is a major network change which involves moving customer services from one switching center to another and establishing the necessary trunking facilities to do so. Harry Newton, Newton's Telecom Dictionary, 19th ed. 2003.

<sup>10</sup> The Wireless Telecommunications and Public Safety Act of 1999 mandates that the Federal Communications Commission "shall encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 911 service."

ORDER NO. PSC-08-0798-FOF-TP  
DOCKET NO. 070736-TP  
PAGE 9

[i]t is essential that the requesting PSAPs participate in negotiating an arrangement that meets their specific and unique needs; otherwise, 911 call transfers may not work the way they intended or expected, possibly resulting in loss of life. . . . It's important that the PSAPs have a bona fide need to transfer calls between them and that their need is met by including them in the arrangement to provide that service, and that is not in a two-party Section 251(c) interconnection agreement between an ILEC such as AT&T and a CLEC such as Intrado [Comm].

Sections 365.171-175, F.S., address Florida's 911/E911 plan. Any changes involving 911/E911 require the facilitation and cooperation of all affected agencies and entities to resolve any changes or complications that affect 911/E911 in Florida. Decisions affecting the provision of 911/E911 service in Florida are made by several different agencies, including the Department of Management Services, local and state officials, providers and PSAPs. Accordingly, any discussion regarding the provisioning of competitive 911/E911 service in Florida requires that all potentially affected parties be consulted and afforded an opportunity to weigh in on these vital matters.

### **III. Decision:**

We find that Intrado Comm currently provides or intends to provide 911/E911 service to Public Safety Answering Points in Florida. This service does not meet the definition of "telephone exchange service" pursuant to 47 U.S.C. 153(47) because the service will not provide the ability both to originate and terminate calls.

We also find that Intrado Comm's 911/E911 service does not meet the definition of "telephone exchange service," pursuant to the provisions set forth in §251(c). We also find that AT&T is not required to provide interconnection pursuant to the provisions set forth in §251(c). Because any resulting agreement between the parties will not be pursuant to §251(c), we need not address the remaining 22 issues identified in the Prehearing Order, Order No. PSC-08-0400-PHO-TP.

This docket shall be closed and the parties may negotiate a commercial agreement pursuant to §251(a). We are aware of several public policy matters that may warrant examination with the emergence of competitive 911/E911 providers. As such, we direct our staff to further explore these matters.

Based on the foregoing, it is

ORDERED by Florida Public Service Commission that Intrado Communications, Inc. currently provides or intends to provide 911/E911 service to Public Safety Answering Points in Florida. It is further

ORDERED that Intrado Communications, Inc.'s service does not meet the definition of "telephone exchange service" pursuant to 47 U.S.C. 153(47) because it will not provide the ability both to originate and terminate calls. It is further

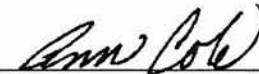
ORDERED that BellSouth Telecommunications, Inc. d/b/a AT&T Florida is not required to provide interconnection pursuant to the provisions set forth in §251(c) and the parties may negotiate a commercial agreement. It is further

ORDERED that the remaining 22 issues identified in the Prehearing Order, Order No. PSC-08-0400-PHO-TP, need not be addressed. It is further

ORDERED that our staff shall further explore public policy matters that may warrant examination with the emergence of competitive 911/E911 providers. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 3rd day of December, 2008.



ANN COLE  
Commission Clerk

( S E A L )

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**Exhibit DP-3**

**Reply of Intrado Communications of Virginia Inc., *Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with Verizon South Inc. and Verizon Virginia Inc. (collectively, "Verizon"), FCC WC Docket No. 08-185 (filed Jan. 29, 2009)***



**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of the Petition	)	
of Intrado Communications of Virginia Inc. for Arbitration	)	
Pursuant to Section 252(b) of the Communications Act	)	WC Docket No. 08-33
of 1934, as amended, to Establish an Interconnection	)	
Agreement with Central Telephone Company of Virginia	)	
and United Telephone - Southeast, Inc.	)	
(collectively, "Embarq")	)	

In the Matter of the Petition of )  
Intrado Communications of Virginia Inc. for Arbitration )  
Pursuant to Section 252(b) of the Communications Act ) WC Docket No. 08-185  
of 1934, as amended, to Establish an Interconnection )  
Agreement with Verizon South Inc. and Verizon Virginia )  
Inc. (collectively, "Verizon") )

## REPLY OF INTRADO COMMUNICATIONS OF VIRGINIA INC.

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Dated: January 29, 2009

## Its Attorneys

**TABLE OF CONTENTS**

	<u>Page</u>
INTRODUCTION AND SUMMARY .....	2
ARGUMENT .....	9
I. <b>THRESHOLD ISSUE: INTRADO COMM WILL OFFER TELEPHONE EXCHANGE SERVICE AND IS ENTITLED TO SECTION 251(C) INTERCONNECTION</b> .....	9
II. <b>ISSUE 1: WHERE SHOULD THE POINTS OF INTERCONNECTION BE LOCATED AND WHAT TERMS AND CONDITIONS SHOULD APPLY WITH REGARD TO INTERCONNECTION AND TRANSPORT OF TRAFFIC ISSUE 5: HOW SHOULD THE PARTIES ROUTE 911/E-911 CALLS TO EACH OTHER</b> .....	24
III. <b>ISSUE 2: WHETHER THE PARTIES SHOULD IMPLEMENT INTER-SELECTIVE ROUTER TRUNKING AND WHAT TERMS AND CONDITIONS SHOULD GOVERN THE EXCHANGE OF 911 CALLS BETWEEN THE PARTIES</b> .....	30
IV. <b>ISSUE 3: WHETHER THE FORECASTING PROVISIONS SHOULD BE RECIPROCAL</b> .....	33
V. <b>ISSUE 7: WHETHER THE AGREEMENT SHOULD CONTAIN PROVISIONS WITH REGARD TO THE PARTIES MAINTAINING ALI STEERING TABLES, AND IF SO, WHAT THOSE PROVISIONS SHOULD BE</b> .....	34
VI. <b>ISSUE 9: SHOULD SECTION 2.5 OF THE 911 ATTACHMENT BE MADE RECIPROCAL AND QUALIFIED AS PROPOSED BY INTRADO</b> .....	35
VII. <b>ISSUE 16: SHOULD THE VERIZON-PROPOSED TERM “A CALLER” BE USED TO IDENTIFY WHAT ENTITY IS DIALING 911, OR SHOULD THIS TERM BE DELETED, AS PROPOSED BY INTRADO</b> .....	36
CONCLUSION.....	37
CERTIFICATE OF SERVICE	
ATTACHMENT 1 - PORTIONS OF OHIO HEARING TRANSCRIPT	



Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

In the Matter of the Petition	)	
of Intrado Communications of Virginia Inc. for Arbitration	)	
Pursuant to Section 252(b) of the Communications Act	)	WC Docket No. 08-33
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Intrado Communications of Virginia Inc. for Arbitration	)	
Pursuant to Section 252(b) of the Communications Act	)	WC Docket No. 08-185
of 1934, as amended, to Establish an Interconnection	)	
Agreement with Verizon South Inc. and Verizon Virginia	)	
Inc. (collectively, "Verizon")	)	
	)	

**REPLY OF INTRADO COMMUNICATIONS OF VIRGINIA INC.**

Intrado Communications of Virginia Inc. ("Intrado Comm"), through its attorneys, respectfully submits its Reply to the Response filed by Verizon South Inc. and Verizon Virginia Inc. (collectively, "Verizon") with respect to Intrado Comm's Petition for Arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Verizon pursuant to Section 252(b) of the Communications Act of 1934, as amended ("Act").<sup>1</sup> The Wireline Competition Bureau ("Bureau") of the Federal Communications Commission ("Commission") should adopt Intrado Comm's positions and proposed interconnection agreement language as set forth herein and in Intrado Comm's Petition for Arbitration for the unresolved issues between the Parties.

<sup>1</sup> 47 U.S.C. § 252(b).

## INTRODUCTION AND SUMMARY

Verizon's Response demonstrates that Verizon seeks to continue to use its monopoly position as a dominant provider of 911/E-911 services to Virginia public safety agencies and public service answering points ("PSAPs")<sup>2</sup> to impede Intrado Comm's entry into the market. Verizon's apparent objective is to prevent competition in contravention of the goals of the Act. Despite Verizon's attempt to shield its monopoly from competition, Virginia public safety agencies are legally entitled to choose a competitive provider such as Intrado Comm. The opening of the local exchange market to competition via Section 251(c) was "intended to pave the way for enhanced competition in all telecommunications markets, by allowing all providers to enter all markets."<sup>3</sup> This includes the provision of 911/E-911 services to PSAPs.

Since its inception in 1968, 911 service has been treated as telephone exchange service by incumbent local exchange carriers ("ILECs") like Verizon and has been regulated as telephone exchange service by the states.<sup>4</sup> Only now when Verizon is faced with the prospect of competition in one of its last monopoly markets does it claim that competitive 911/E-911 service to PSAPs is not a telephone exchange service and is thus not entitled to 251(c) interconnection. Verizon presents this ridiculous position because it realizes that Intrado Comm cannot offer its competitive 911/E-911 product to Virginia public safety agencies without establishing the

<sup>2</sup> For ease of reference, Intrado Comm uses the term "PSAP" to refer to any Virginia public safety agency or governmental authority that may be responsible for purchasing 911/E-911 services to ensure consumers living in the relevant geographic area can reach emergency responders.

<sup>3</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, ¶ 4 (1996) ("*Local Competition Order*") (emphasis added) (intervening history omitted), *aff'd by AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

<sup>4</sup> For example, 911/E-911 services to PSAPs are located in the ILECs local exchange service tariffs, and have been classified as "business exchange service" or "telephone exchange network service." *See, e.g.,* Verizon Virginia Inc. Miscellaneous Service Arrangements Tariff, 14A. Emergency 911 Services, Original Page 10 (effective July 1, 2005); United Telephone Southeast LLC, Tariff SCC No. 1, General Subscriber Services Tariff, Section U21.1, Original Page 1 (effective May 20, 2008).

necessary interconnection and interoperability arrangements with the public switched telephone network (“PSTN”) to which all 911 callers and PSAPs are connected.<sup>5</sup> As demonstrated below, Intrado Comm’s planned 911/E-911 service to PSAPs meets the definition of “telephone exchange service” thereby entitling Intrado Comm to Section 251(c) interconnection with Verizon. Verizon’s arguments to the contrary are legally and factually incorrect and should be rejected.

Further, Verizon’s claim that this is simply another arbitration proceeding between an ILEC and a competitive local exchange carrier (“CLEC”) and the type of competitive service to be offered - 911 service to PSAPs - is irrelevant to evaluating interconnection arrangements, should also be rejected.<sup>6</sup> There is not a single CLEC that is interconnected with Verizon for the purpose of competing with Verizon to provide 911/E-911 services to PSAPs. The CLECs interconnected with Verizon today provide competitive residential and business services. This proceeding, however, is about interconnection arrangements to be established between Intrado Comm and Verizon that will permit Intrado Comm to provide competitive 911 services to PSAPs. As Section 251(c) recognizes, the interconnection arrangements established between the Parties as a result of this arbitration proceeding will have a direct effect on the quality of service provided to Virginia public safety agencies, and consequently, to Virginia consumers. If Intrado Comm is denied access to physical interconnection arrangements that are at least equal in quality

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<sup>5</sup> As explained below, the issue of whether Intrado Comm is entitled to Section 251(c) interconnection is not a matter for arbitration that has been presented to the Commission for resolution in either Intrado Comm’s Petition for Arbitration or Verizon’s Response.

<sup>6</sup> Verizon Response at 4.

to what Verizon has established for its own 911 service to PSAPs today, PSAPs will not realize the benefits of competition intended by the Act.<sup>7</sup>

Section 251(c) contemplates and allows for Intrado Comm's interconnection proposals for the competitive provision of 911 service to PSAPs despite Verizon's arguments to the contrary.<sup>8</sup> Existing 251(c) requirements and Commission precedent have focused on interconnection for plain old telephone service ("POTS") traffic. While those rules and regulations are important, they do not foreclose a review of the statute, rules, and policies from the perspective of the best interconnection arrangements for the competitive provision of 911/E-911 services to PSAPs, which is at issue here. Verizon itself has decided that network interconnection arrangements for the provision of 911 services to PSAPs should be different from those used for POTS traffic. Interconnection arrangements and the rules designed for the competitive provision of POTS should not alter or prevent the application of the statutory requirement that competitors are entitled to interconnection that is equal in quality to what the ILEC provides to itself.<sup>9</sup>

The critical question is: how does Verizon provide 911/E-911 services to PSAPs today? The only provider of 911/E-911 services to PSAPs in the Verizon service territory is Verizon. Thus, Verizon's own practices (as well as those of the ILECs operating in other geographic areas) have established the standard for service to PSAPs and defined the appropriate network arrangements to be used for the exchange of 911/E-911 traffic in a competitive market. As

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<sup>7</sup> The use of dedicated direct trunks to the appropriate selective router has been the arrangement used for 911 services since their inception. *See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced Emergency 911 Calling Systems*, 9 FCC Rcd 6170, ¶ 4 (1994) (discussing the routing of emergency telephone calls "over dedicated telephone lines").

<sup>8</sup> Verizon Response at 4.

<sup>9</sup> 47 U.S.C. § 251(c)(2)(C).

discussed below, this ILEC-developed network interconnection standard for 911 service has also been embraced by the Commission and state commissions.<sup>10</sup> Verizon itself has decided that 911 interconnection arrangements should be different from those used for POTS traffic, and Verizon is required to give Intrado Comm the same arrangements it provides to itself when Verizon is serving the PSAP.<sup>11</sup> To find otherwise would undermine the entire foundation of Section 251(c) - to ensure competitors receive interconnection that “is at least indistinguishable from that which the incumbent provides itself.”<sup>12</sup> It would be foolish for this proceeding to ignore the existing arrangements used for the provision of 911/E-911 service to PSAPs today. The history of the implementation of 911 service demonstrates that the current physical interconnection architecture was established to ensure public safety.<sup>13</sup>

Specifically, Verizon requires all CLECs and wireless carriers to interconnect at the appropriate selective router, *i.e.*, the selective router serving the PSAP to which the 911 call is destined.<sup>14</sup> This is consistent with the Commission’s mandates that the selective router should be the “cost allocation” point for the exchange of 911/E-911 traffic.<sup>15</sup> Although that finding

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<sup>10</sup> See, e.g., *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County*, 17 FCC Rcd 14789, ¶ 1 (2002) (“*King County Order*”) (finding the selective router is the “cost allocation” point); ILL. ADMIN CODE TIT. 83, § 725.500(c), (x) (requiring all carriers to use dedicated direct trunking “to deliver 9-1-1 calls to the appropriate selective router based on the originating caller’s location and assigned NPA for the 9-1-1 service provider’s selective router coverage area”); TEXAS P.U.C. SUBST. R. 26.435 (stating that carriers are “responsible for providing such dedicated trunks from the [carrier] switching office or point of presence to the 9-1-1 selective router” and requiring carriers to deploy a minimum of two dedicated trunks to each selective router).

<sup>11</sup> 47 U.S.C. § 251(c)(2)(C).

<sup>12</sup> *Local Competition Order* ¶ 224.

<sup>13</sup> See, e.g., *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced Emergency 911 Calling Systems*, 9 FCC Rcd 6170, ¶ 4 (1994) (noting the establishment of 911 network arrangements to ensure that emergency calls “are recognized and answered as emergency calls by professionals trained to assist callers in need of emergency assistance”); see also *id.* ¶ 1 (“we intend to ensure that the effective operation of 911 services is not compromised by new developments in telecommunications”).

<sup>14</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>15</sup> *King County Order* ¶ 1.

resulted in “a cost allocation point beyond” the carrier’s switch, the Commission nevertheless found it was appropriate and consistent with industry practice.<sup>16</sup> This arrangement is also consistent with the 911 interconnection arrangements used by Embarq and AT&T,<sup>17</sup> as well as the requirements mandated by several states.<sup>18</sup> It is for these reasons that the Public Utilities Commission of Ohio determined that the point of interconnection (“POI”) when Intrado Comm is serving the PSAP should be at the selective router of the 911/E-911 network provider and that an ILEC sending 911/E-911 calls to Intrado Comm PSAP customers is responsible for delivering those 911/E-911 calls to an Intrado Comm selective router location.<sup>19</sup>

Further, Verizon’s template interconnection agreement mandates the use of dedicated direct trunks for the transmission of 911 calls to the selective router serving the PSAP to which the 911 call is directed.<sup>20</sup> This requirement is consistent with the 911 network interconnection

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<sup>16</sup> *King County Order* ¶ 11.

<sup>17</sup> See, e.g., AT&T 22-State Template Interconnection Agreement at Attachment 5 Sections 4.1.1, 4.1.2 (stating that “CLEC will transport the appropriate 911 calls from each Point of Interconnection (POI) to the appropriate AT&T-22STATE E911 SR location” and “CLEC shall be financially responsible for the transport facilities to each AT&T-22STATE E911 SR”), available at <https://clec.att.com/clec/shell.cfm?section=115#Multi-State>; Embarq Template Interconnection Agreement at Section 55.1.3 (Attachment 1 to Intrado Comm Embarq VSCC Petition for Arbitration) (stating “Separate trunks will be utilized for connecting CLEC’s switch to each 911/E911 tandem.”).

<sup>18</sup> See, e.g., ILL. ADMIN CODE TIT. 83, § 725.500(x) (requiring all telecommunications carriers to adopt practices and procedures “to deliver 9-1-1 calls to the appropriate selective router based on the originating caller’s location and assigned NPA for the 9-1-1 service provider’s selective router coverage area”); Texas P.U.C. SUBST. R. 26.435 (stating that carriers are “responsible for providing such dedicated trunks from the [carrier] switching office or point of presence to the 9-1-1 selective router” and requiring carriers to deploy a minimum of two dedicated trunks to each selective router).

<sup>19</sup> Ohio Case No. 07-1216-TP-ARB, *Petition of Intrado Communications, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio dba Embarq and United Telephone Company of Indiana dba Embarq Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Arbitration Award at 33 (Sept. 24, 2008) (“*Ohio Embarq Arbitration Award*”); see also Ohio Case No. 08-537-TP-ARB, *Petition of Intrado Communications Inc. for Arbitration pursuant to Section 252(b) of the Communications Act of 1934, as Amended, to Establish an Interconnection Agreement with Cincinnati Bell Telephone Company*, Arbitration Award at 8-9 (Oct. 8, 2008) (“*Ohio CBT Arbitration Award*”).

<sup>20</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).



arrangements used by other ILECs,<sup>21</sup> as well as other state commission requirements.<sup>22</sup> Illinois Staff recently recommended that Verizon be required to directly trunk 911 traffic from its end offices to the point of interconnection when Intrado Comm is the designated 911/E-911 service provider because “[i]ntermediate switching [of 911/E-911 calls] at Verizon’s selective router would perform no useful network function, and would contribute nothing to 911 system reliability or efficacy” and thus “there is no need for Verizon to route the 911 calls through its selective router.”<sup>23</sup>

There is no support in the law for the use of different POI or trunking arrangements when Intrado Comm is 911/E-911 service provider serving the PSAP. Verizon cannot use Section 251(c)(2)(B) as applied to POTS traffic to undermine its equal in quality obligations under 251(c)(2)(C). Verizon itself has ignored 251(c)(2)(B)’s requirements, which permit CLECs to establish a single POI on Verizon’s network and avoid physical or financial obligations beyond the POI. Verizon has adopted interconnection agreement arrangements for CLECs that support a different network architecture for 911 calls to promote public safety.<sup>24</sup> The Verizon 911

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<sup>21</sup> See, e.g., AT&T 22-State Template Interconnection Agreement at Attachment 5 Sections 4.1.1, 4.1.2 (stating that “CLEC will transport the appropriate 911 calls from each Point of Interconnection (POI) to the appropriate AT&T-22STATE E911 SR location” and “CLEC shall be financially responsible for the transport facilities to each AT&T-22STATE E911 SR”), available at <https://clec.att.com/clec/shell.cfm?section=115#Multi-State>; Embarq Template Interconnection Agreement at Section 55.1.3 (Attachment 1 to Intrado Comm Embarq VSCC Petition for Arbitration) (stating “Separate trunks will be utilized for connecting CLEC’s switch to each 911/E911 tandem.”).

<sup>22</sup> See, e.g., ILL. ADMIN CODE TIT. 83, § 725.500(c), (x) (requiring the use of dedicated direct trunking to the selective router serving the PSAP); Texas P.U.C. SUBST. R. 26.435 (stating that carriers are “responsible for providing such dedicated trunks from the [carrier] switching office or point of presence to the 9-1-1 selective router” and requiring carriers to deploy a minimum of two dedicated trunks to each selective router).

<sup>23</sup> Illinois Docket No. 08-0550, Direct Testimony of Jeffrey H. Hoagg on behalf of Staff of the Illinois Commerce Commission at 10, lines 221-23 (filed Dec. 19, 2008) (“Illinois Hoagg Staff Testimony”), available at <http://www.icc.illinois.gov/docket/files.aspx?no=08-0550&docId=132117>; Illinois Docket No. 08-0550, Direct Testimony of Kathy Stewart on behalf of Staff of the Illinois Commerce Commission at 4, lines 98-100 (filed Dec. 19, 2008) (“Illinois Stewart Staff Testimony”), available at <http://www.icc.illinois.gov/docket/files.aspx?no=08-0550&docId=132117>.

<sup>24</sup> See, e.g., West Virginia Case 08-0298-T-PC, Hearing Transcript at 208, lines 17-25 (Oct. 2, 2008), available at <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=250537&NotType='WebDocket'>; Ohio Case 08-198-TP-ARB, Hearing Transcript at 102, lines 15-23 (Jan. 13, 2009) (set forth in Attachment 1).

interconnection arrangements require the CLEC to establish multiple POIs in addition to the POI for POTS and dictate the trunking arrangements to be used on the CLEC's side of those POIs for 911 (two dedicated direct one-way trunks to each 911 POI).<sup>25</sup> Everything that Verizon complains about with respect to Intrado Comm's proposed contract language was designed by Verizon and is embodied in Verizon's own template agreements for CLECs to ensure Verizon receives 911 calls destined for its PSAP customers in a specific way.<sup>26</sup> The interconnection arrangements sought by Intrado Comm here are the same that Verizon and other ILECs have established for themselves to serve their PSAP customers and are the standard of interconnection to be applied pursuant to Section 251(c)(2)(C) under a request for interconnection to provide competitive 911 services to PSAPs.

The Commission therefore has the authority to adopt the physical architecture arrangements Intrado Comm seeks, which reflect industry practices established by ILECs like Verizon and are consistent with Section 251(c) and the Commission's rules for the provision of 911/E-911 services. It would be a complete reversal of sound engineering, physical architecture decision making, and regulatory policies deemed to serve the public interest to deny a competitor providing 911/E-911 services to PSAPs any interconnection arrangement other than that which mirrors the arrangements established between Verizon and other competitive carriers needing access to Verizon served PSAPs. This is consistent with the laws of statutory construction and

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<sup>25</sup> It is important to note that Verizon requires the CLEC to route all 911 calls to the "designated" selective router. This means the CLEC must sort its 911 calls in order to determine which Verizon selective router should receive the 911 call. Verizon requires this sorting of wireless carriers who need to complete their customer 911 calls to Verizon PSAP customers also. Thus, while Verizon and other ILECs complain they cannot sort their 911 calls without switching the call through their selective routers, they expect everyone else in the industry to do just that.

<sup>26</sup> Intrado Comm agrees with regulators and the ILECs that the best POI for 911 service to PSAPs is at the selective router of the carrier providing the service to the PSAP. When Intrado Comm has customers who call 911 and Verizon is the 911 service provider for the PSAP, Intrado Comm will have a POI at Verizon's selective router for the delivery of the 911 call to the appropriate PSAP. *See* Intrado Comm Petition at Attachment 3, 911 Attachment § 1.3.1.



the intent of the Act. The Act is dynamic so that it can be flexibly applied to adapt to the ever-changing communications industry.<sup>27</sup> Accordingly, Intrado Comm's proposed language should be adopted for inclusion in the Parties' interconnection agreement so that Virginia public safety agencies and Virginia citizens dialing 911 receive the most reliable, redundant, and diverse 911 network possible.

## ARGUMENT<sup>28</sup>

### I. **THRESHOLD ISSUE: INTRADO COMM WILL OFFER TELEPHONE EXCHANGE SERVICE AND IS ENTITLED TO SECTION 251(C) INTERCONNECTION**

As explained in Intrado Comm's Petition, the issue of whether Intrado Comm is entitled to Section 251(c) interconnection is not a matter that has been presented to the Commission for arbitration in this proceeding.<sup>29</sup> Nor has this issue been raised by either Party in any of the pending arbitration proceedings between Intrado Comm and Verizon.<sup>30</sup> This is based on the agreement reached between Intrado Comm and Verizon that Intrado Comm's entitlement to Section 251(c) would not be an issue for arbitration between the Parties. Indeed, when given the opportunity in this proceeding to designate "additional" issues for arbitration, Verizon

<sup>27</sup> See, e.g., *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385, ¶ 21 (1999) ("*Advanced Services Order*") (recognizing "[i]n this era of converging technologies, limiting the telephone exchange service definition to voice-based communications would undermine a central goal of the 1996 Act"); see also Intrado Comm Statement of Unresolved Issues at 2-3 (discussing the Commission's broad authority to regulate 911/E-911 services).

<sup>28</sup> For Issues 4, 6, 8, 10, 11, 12, 13, 14, and 15, Verizon's Response provides no additional authority or support for its proposed language. As Intrado Comm explained in its Petition for Arbitration, Intrado Comm's proposed language for each of these issues is reasonable and consistent with law or established industry practices. Verizon has provided no legal support otherwise. Accordingly, Intrado Comm's proposed language for these issues should be adopted.

<sup>29</sup> Intrado Comm Petition at 16.

<sup>30</sup> See, e.g., *See, e.g.*, Verizon Direct Testimony in West Virginia Case No. 08-0298-T-PC at lines 172-74 (filed Sept. 9, 2008), available at <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=248548&NotType='WebDocket'> ("Verizon has agreed to negotiate and arbitrate an interconnection agreement with Intrado on the same basis it does with any CLEC"). Similar statements are repeated in testimony filed by Verizon in other states. In Texas, the Arbitrators raised the issue on their own motion; Verizon did not affirmatively raise the issue.

specifically stated that there were none.<sup>31</sup> The Commission's jurisdiction to arbitrate is specifically limited to the issues raised by the petitioner (*i.e.*, Intrado Comm) and any additional issues identified by the respondent (*i.e.*, Verizon).<sup>32</sup>

Verizon is wrong that Intrado Comm's right to Section 251(c) "is necessarily an issue" in this proceeding because Intrado Comm's preemption request was based on that issue.<sup>33</sup> Intrado Comm's preemption request was filed before the Parties reached agreement that the 251(c) issue would not be presented for arbitration. Moreover, Intrado Comm never requested that the Commission "apply a similar determination" to that in the Embarq proceeding with respect to this issue as Verizon claims.<sup>34</sup> Intrado Comm's request for "similar" treatment was a request for Intrado Comm's preemption request in the Verizon proceeding to be treated similarly to Intrado

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<sup>31</sup> Verizon Response at 7.

<sup>32</sup> 47 U.S.C. § 252(b)(4)(A). There is no merit to Verizon's argument that Intrado Comm is not entitled to arbitration outside of Section 251(c). See Verizon Response at 4. While Intrado Comm is entitled to interconnection under 251(c), arbitration is permitted for provisions outside of 251(b) and 251(c) in certain circumstances. See, e.g., *Coserv Limited Liability Corporation v. Southwestern Bell Telephone Company*, 350 F.3d 482 (5th Cir. 2003) ("where the parties have voluntarily included in negotiations issues other than those duties required of an ILEC by § 251(b) and (c), those issues are subject to compulsory arbitration under § 252(b)(1). . . . Congress knew that these non-251 issues might be subject to compulsory arbitration if negotiations fail. That is, Congress contemplated that voluntary negotiations might include issues other than those listed in § 251(b) and (c) and still provided that any issue left open after unsuccessful negotiation would be subject to arbitration by the [state commission]") (emphasis in original); Ohio Case No. 08-537-TP-ARB, *Petition of Intrado Communications Inc. for Arbitration pursuant to Section 252(b) of the Communications Act of 1934, as Amended, to Establish an Interconnection Agreement with Cincinnati Bell Telephone Company*, Entry on Rehearing at 11-12 (Jan. 14, 2009) ("Ohio CBT Rehearing Award") ("The Commission agrees with Intrado that a state commission can use its Section 252 arbitration and enforcement authority over all Section 251 agreements."); Indiana Cause No. 43052-INT-01, *Sprint Communications Company L.P.'s Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates Terms and Conditions of Interconnection with Ligonier Telephone Company, Inc.*, Opinion (I.U.R.C. Sept. 6, 2006) (agreeing that Section 251(a) issues may be included in a Section 252 arbitration proceeding); North Dakota Case No. PU-2065-02-465, *Level 3 Communications LLC Interconnection Arbitration Application*, Order (N.D. P.U.C. May 30, 2003) (finding the arbitration provisions of Section 252 are available for all Section 251 interconnections, including interconnections under Section 251(a)); Washington Docket No. UT-023043, *Petition for Arbitration of an Interconnection Agreement Between Level 3 Communications, LLC and CenturyTel of Washington, Inc. Pursuant to 47 U.S.C. Section 252*, Seventh Supplemental Order: Affirming Arbitrator's Report and Decision (Wash. U.T.C. Feb 28, 2003) ("[T]he mechanisms for negotiation, mediation, and arbitration provided by Section 252 apply to requests to negotiate made under Section 251(a).").

<sup>33</sup> Verizon Statement of Relevant Authority at 4.

<sup>34</sup> Verizon Statement of Relevant Authority at 4.

Comm's preemption request in the Embarq proceeding. The "virtually identical issues" identified by the Bureau between the two proceedings was the Virginia commission's failure to act, not whether Intrado Comm is entitled to Section 251(c).<sup>35</sup>

Thus, there is no basis for inclusion of this issue in Intrado Comm's arbitration proceeding with Verizon. Nonetheless, Intrado Comm is entitled to interconnect with Verizon pursuant to Section 251(c) for Intrado Comm's provision of competitive 911/E-911 services to Virginia PSAPs because competitive 911/E-911 services to PSAPs are "telephone exchange services" for purposes of Section 251(c)(2)(A) of the Act.<sup>36</sup>

Congress defined "telephone exchange service" in two ways, and a service may satisfy either part of the definition to be considered a telephone exchange service. A telephone exchange service under Part (A) of the definition must:

- (1) furnish subscribers intercommunicating service;
- (2) be within a telephone exchange or within a connected system of telephone exchanges within the same exchange area; and
- (3) be covered by an exchange service charge.<sup>37</sup>

A telephone exchange service under Part (B) of the definition must:

- (1) be a comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof);
- (2) originate and terminate a telecommunications service; and
- (3) provide subscribers the ability to intercommunicate.<sup>38</sup>

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<sup>35</sup> Cf. Verizon Statement of Relevant Authority at 4-5.

<sup>36</sup> Intrado Comm acknowledges that its competitive 911/E-911 service offering is not an "exchange access" service as defined in the Act.

<sup>37</sup> 47 U.S.C. § 153(47)(A).

The purpose for including the “telephone exchange service” limitation in 251(c) should not be forgotten or overlooked. It does not exist to require an analysis of each local service offered by a carrier, but rather was included to ensure long distance carriers did not attempt to avail themselves of 251(c) interconnection in an effort to circumvent access charges.<sup>39</sup> Congress balanced the stick of 251(c) – additional obligations necessary to ensure equal bargaining power for the opening of local markets – with the carrot of the right of ILECs to provide long distance service under Section 271.<sup>40</sup> Now that Verizon has the rights of 271, it seeks to further limit its obligations under 251(c) to promote competition for a local service where no competition exists today.

As explained below, Intrado Comm’s competitive 911/E-911 service to PSAPs meets the standards of both parts of the federal definition. 911/E-911 service to PSAPs is a telephone exchange service when Verizon provides it to its PSAP customers<sup>41</sup> and it is a telephone exchange service when Intrado Comm provides it. The Commission has stated that a service is a telephone exchange service if it:

- “provides customers with the capability of intercommunicating with other subscribers;”<sup>42</sup>
- “permits a community of interconnected customers to make calls to one another;”<sup>43</sup>
- allows for “‘intercommunication’ among subscribers within a local exchange area;”<sup>44</sup>

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<sup>38</sup> 47 U.S.C. § 153(47)(B); *see also Advanced Services Order* ¶ 30 (finding “intercommunication” is required under Part (B) even though the language of the Act does not state it).

<sup>39</sup> *Local Competition Order* ¶ 188.

<sup>40</sup> *Local Competition Order* ¶ 55.

<sup>41</sup> Verizon’s 911/E-911 service to PSAPs is located in its general exchange tariff and is classified as a “business exchange service” in the tariff. *See Verizon Virginia Inc. Miscellaneous Service Arrangements Tariff*, 14A. Emergency 911 Services, Original Page 10 (effective July 1, 2005).

<sup>42</sup> *Advanced Services Order* ¶ 23.

<sup>43</sup> *Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, 16 FCC Rcd 2736, ¶ 17 (2001) (“DA Call Completion Order”).

- includes any “means of communicating information within a local area;”<sup>45</sup>
- “permit[s] communications among subscribers within an exchange or within a connected system of exchanges;”<sup>46</sup>
- ““allows a local caller at his or her request to connect to another local telephone subscriber;””<sup>47</sup> and
- permits “the provision of individual two-way voice communication by means of a central switching complex to interconnect all subscribers within a geographic area.”<sup>48</sup>

Intrado Comm’s service meets the requirements found in each of these Commission pronouncements, and Verizon’s arguments to the contrary should be rejected.

**Intercommunication/Originate and Terminate.** The Commission has stated “a key component of telephone exchange service is ‘intercommunication’ among subscribers within a local exchange area.”<sup>49</sup> A service satisfies the “intercommunication” requirement “as long as it provides customers with the capability of intercommunicating with other subscribers.”<sup>50</sup> Intrado Comm’s competitive 911/E-911 service allows its PSAP customers to communicate with Intrado Comm’s other PSAP customers and Verizon’s customers. It allows Virginia consumers to make calls to PSAPs and communicate with local emergency personnel. Thus, Intrado Comm’s service “permits a community of interconnected customers to make calls to one another.”<sup>51</sup> This

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<sup>44</sup> *Advanced Services Order* ¶ 30.

<sup>45</sup> *Advanced Services Order* ¶ 17.

<sup>46</sup> *Advanced Services Order* ¶ 20.

<sup>47</sup> *DA Call Completion Order* ¶ 21.

<sup>48</sup> *Advanced Services Order* ¶ 20.

<sup>49</sup> *Advanced Services Order* ¶ 30.

<sup>50</sup> *Advanced Services Order* ¶ 23.

<sup>51</sup> *DA Call Completion Order* ¶ 17.

interconnected community consists of 911 callers, PSAPs, and first responders located in the relevant geographic area.<sup>52</sup>

For example, a PSAP may receive a 911 call and then “hookflash” to obtain a dial tone and originate a bridged call to a third-party and then connect the originating 911 caller to the third party. In that case, the PSAP can pick up the phone, obtain a dial tone, and originate a call to a third-party. Despite Verizon’s arguments to the contrary,<sup>53</sup> the concept of “hookflash” in the 911 environment to initiate a call is no different than what occurs on a daily basis in a typical office environment when calls are transferred (the person transferring the call obtains dial tone to transfer the call to someone else) or when conferencing capabilities are used (the person seeking to initiate a conference obtains dial tone and dials the third-party number). It is not the 911 caller originating the call, it is the PSAP.<sup>54</sup>

Intrado Comm’s service is not “one-way.”<sup>55</sup> Intrado Comm’s network provides for the capability of two-way communications between 911 callers and emergency responders, and allows Intrado Comm’s public safety agency customers to originate and terminate communications. The key consideration, however, is whether there is two-way communications, not two-way traffic.<sup>56</sup> Intrado Comm’s 911 service nonetheless satisfies both. It is also very important to note that 911 trunks are generally required under state law to be deployed as one-

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<sup>52</sup> *E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, n.32 (2005) (“*VoIP E911 Order*”) (“unlike normal phone calls, 911 calls are routed based on the calling number (which is linked to a particular geographic area and political jurisdiction), not the called number”).

<sup>53</sup> Verizon Statement of Relevant Authority at 11-12.

<sup>54</sup> Cf. Verizon Statement of Relevant Authority at 12.

<sup>55</sup> Cf. Verizon Statement of Relevant Authority at 5.

<sup>56</sup> *Advanced Services Order* ¶ 20 (the FCC “has long interpreted the traditional telephone exchange definition to refer to ‘the provision of individual two-way voice communication by means of a central switching complex to interconnect all subscribers within a geographic area’”).



way trunks.<sup>57</sup> Indeed, the ILECs have engineered their 911 services to PSAPs using one-way trunks for what are obvious public safety reasons. While those trunks can support two-way communications and are capable of being used for two-way traffic purposes, they are generally legally required to be engineered as one-way for a very good reason - they are 911 trunks.

The ability of Intrado Comm's 911 service to permit two-way communication between a PSAP and a 911 caller or between a PSAP and another PSAP as described above<sup>58</sup> is also similar to directory assistance ("DA") call completion services, which have been determined to be telephone exchange service.<sup>59</sup> The Commission reasoned that DA call completion service allows a "local caller to connect to another local telephone subscriber and, in that process, through a system of either owned or resold switches, enables the caller to originate and terminate a call."<sup>60</sup> Thus, while the call completion service offered by the directory assistance provider "may not take the form of an ordinary telephone call (*i.e.*, one initiated by LEC provision of dial tone), [it] nonetheless 'allows a local caller at his or her request to connect to another local telephone subscriber.'"<sup>61</sup> The same analogy applies for 911/E-911 services.

**Within a Telephone Exchange or Exchange Area.** Intrado Comm's service is not required to operate within ILEC exchange boundaries to qualify as telephone exchange service.<sup>62</sup> The concept of an exchange "is based on geography and regulation" not exchange boundaries.<sup>63</sup> In fact, the Commission has found that the telephone exchange service definition "does not

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<sup>57</sup> See, e.g., ILL. ADMIN CODE TIT. 83, § 725.500(d).

<sup>58</sup> *Advanced Services Order* ¶ 20; *DA Call Completion Order* ¶ 20.

<sup>59</sup> *DA Call Completion Order* ¶ 16 (finding DA call completion services met both prongs of the "telephone exchange service" definition).

<sup>60</sup> *DA Call Completion Order* ¶ 20.

<sup>61</sup> *DA Call Completion Order* ¶ 21.

<sup>62</sup> Verizon Statement of Relevant Authority at 10.

<sup>63</sup> *Advanced Services Order* ¶ 22.

require a specific geographic boundary.”<sup>64</sup> For that reason, the Commission determined that wireless providers’ geographic service areas, which are different from typical wireline exchange area boundaries, were considered to be “within a telephone exchange” or “a connected system of telephone exchanges within the same exchange area” for purposes of the Act’s definition of “telephone exchange service.”<sup>65</sup>

Telephone exchange service includes any “means of communicating information within a local area”<sup>66</sup> and involves “a central switching complex which interconnects all subscribers within a geographic area.”<sup>67</sup> Intrado Comm’s 911/E-911 service uses selective routers (*i.e.*, switches) to interconnect PSAPs and 911 callers located in the same geographic area. Geographic or “local areas” are not necessarily based on ILEC exchange boundaries. It is for this reason that expanded area service (“EAS”) and expanded local calling service (“ELCS”) have developed to ensure all members of a “community of interest” can reach other subscribers without incurring a toll charge.<sup>68</sup> 911 service works in the same way – 911 callers and PSAPs in a community of interest can reach each other regardless of the existing designated ILEC exchange areas.

Moreover, ILEC exchange boundaries are inapplicable to 911/E-911 services. The Commission and the federal district court overseeing the Modified Final Judgment recognized

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<sup>64</sup> *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd 20599, ¶ 30 (1998) (“*BellSouth Louisiana II Order*”).

<sup>65</sup> *BellSouth Louisiana II Order* ¶ 30.

<sup>66</sup> *Advanced Services Order* ¶ 17.

<sup>67</sup> *BellSouth Louisiana II Order* ¶ 28.

<sup>68</sup> *See generally Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, 12 FCC Rcd 10646 (1997).



that many 911/E-911 “transmissions cross LATA boundaries.”<sup>69</sup> The district court specifically waived the LATA restrictions to ensure the Bell Operating Companies (“BOCs”) could “provide, using their own facilities, 911 emergency service across LATA boundaries to any 911 customer whose jurisdiction crosses a LATA boundary,”<sup>70</sup> thus allowing “the BOCs to provide multiLATA 911 services, including E911 services.”<sup>71</sup> The Commission also recognized that selective routers often serve 911 callers and PSAPs in more than one LATA.<sup>72</sup> Thus, there is no requirement that Intrado Comm’s service offering be based on Verizon’s exchange boundaries to qualify as a telephone exchange service under the Act.

**Exchange Service Charge.** Whether an “exchange service charge” is imposed on end users dialing 911 has no bearing on Intrado Comm’s competitive 911/E-911 service to be provided to Virginia public safety agencies.<sup>73</sup> Intrado’s customer – the Virginia public safety agency – will be subject to an “exchange service charge” for its receipt of a telephone exchange service from Intrado Comm. With respect to the services at issue in the *Advanced Services Order*, the Commission determined “that any charges” assessed for the service would be considered the “exchange service charge.”<sup>74</sup> Intrado Comm’s service meets this element of the definition because Intrado Comm’s PSAP customers will obtain “the ability to communicate

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<sup>69</sup> *Bell Operating Companies; Petitions for Forbearance from the Application of Section 272 of the Communications Act of 1934, as amended, to Certain Activities*, 13 FCC Rcd 2627, ¶ 20 (1998) (“*Forbearance Order*”).

<sup>70</sup> *United States v. Western Elec. Co.*, Civil Action No. 82-0192, Misc. No. 82-0025 (PI), slip op. at 5 n.8 (D.D.C. Feb. 6, 1984).

<sup>71</sup> Letter from Constance E. Robinson, Chief, Communications and Finance Section, Antitrust Division, U.S. Department of Justice, to Alan F. Ciamporcero, Pacific Telesis Group, I (Mar. 27, 1991).

<sup>72</sup> *Forbearance Order* ¶ 9.

<sup>73</sup> Cf. Verizon Statement of Relevant Authority at 13.

<sup>74</sup> *Advanced Services Order* ¶ 27.

within the equivalent of an exchange area as a result of entering into a service and payment agreement with” Intrado Comm.<sup>75</sup>

Further, the Commission has stated that the “exchange service charge” portion of the definition “comes into play only for the purposes of distinguishing whether or not a service is local.”<sup>76</sup> The jurisdictional nature of 911/E-911 service is not at issue here. 911/E-911 services to PSAPs are routinely included in intrastate tariffs and the Parties have agreed that no form of intercarrier compensation applies to their exchange of 911/E-911 calls. Accordingly, Intrado Comm’s competitive 911/E-911 service satisfies the exchange service charge prong of the definition.

**Other State Commission Determinations.** Intrado Comm’s competitive 911/E-911 service has the same qualities as other services deemed to be telephone exchange services by other state commissions. In 2000, Intrado Comm’s predecessor (SCC Communications) sought to interconnect with AT&T in Texas, Illinois, and California. In response to AT&T’s motions to dismiss in all three states, in which AT&T argued that Intrado Comm was not entitled to 251(c) interconnection because it did not offer telephone exchange service, the Illinois commission<sup>77</sup> as well as arbitrators in Texas<sup>78</sup> and the California Public Utilities Commission<sup>79</sup> found that SCC did offer telephone exchange service and therefore was entitled to interconnection under 251(c).

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<sup>75</sup> *Advanced Services Order* ¶ 27.

<sup>76</sup> *Advanced Services Order* ¶ 27.

<sup>77</sup> Illinois Docket No. 00-0769, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Arbitration Decision (Mar. 21, 2001) (“*Illinois SCC Order*”).

<sup>78</sup> Texas Docket No. 23378, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996, to Establish an Interconnection Agreement with SBC Communications*, Order No. 8 Denying Motion to Dismiss (Jan. 4, 2002) (“*Texas SCC Order*”).

<sup>79</sup> California Decision No. 01-09-048, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Opinion Affirming Final Arbitrator’s Report and Approving Interconnection Agreement (C.P.U.C. Sept. 20, 2001) (“*California SCC Order*”).

While SCC offered a different type of service than Intrado Comm now plans to offer, many of those earlier findings are relevant to Intrado Comm's planned competitive 911/E-911 service offering to PSAPs in Virginia.

Specifically, the Illinois commission determined that the SCC service at issue in 2000 was a telephone exchange service for the purpose of 251(c) because: (1) a telephone exchange service includes non-traditional means of communication; (2) a service that transports and enhances a 911 call is a service that transmits between or among points specified by the user within the meaning of "telecommunications" under the Act; and (3) a service that transports a portion of an emergency or 911 call falls within the definition of telephone exchange service.<sup>80</sup> These qualities similarly apply to Intrado Comm's planned competitive 911/E-911 service to Virginia public safety agencies. Indeed, Staff of the Illinois commission recently found in Intrado Comm's pending arbitration proceeding with AT&T that the previous findings of the Illinois commission with respect to SCC apply to Intrado Comm's planned service offering and AT&T has not "provided persuasive arguments to cause the [Illinois] Commission to depart form[sic] or alter its previous decision on this matter."<sup>81</sup>

Further, the Texas arbitrators found that SCC's service would "both transmit and route 9-1-1 calls, which calls are telephone exchange service and/or exchange access" for which the ILEC was under an obligation to provide interconnection.<sup>82</sup> Likewise, the California commission determined that SCC's service was a telephone exchange service for the purpose of Section 251(c) because the service: (1) enables subscribers to "intercommunicate" within a

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<sup>80</sup> *Illinois SCC Order* at 5-6.

<sup>81</sup> Illinois Docket No. 08-0545, Initial Brief of the Staff of the Illinois Commerce Commission at 10 (filed Jan. 5, 2009), available at <http://www.icc.illinois.gov/docket/files.aspx?no=08-0545&docId=132320>.

<sup>82</sup> *Texas SCC Order* at 11-12.

telephone exchange; (2) allows citizens dialing 911 to conduct a two-way voice communication with a person at the PSAP; (3) fulfills the requirement to allow origination and termination of calls as set forth in the definition of telephone exchange service; and (4) allows intercommunication even though SCC is not the dial tone provider.<sup>83</sup> Again, each of these findings equally applies to Intrado Comm's planned service in Virginia.

In addition, the Ohio commission specifically determined that Intrado Comm's competitive 911/E-911 service to PSAPs is a telephone exchange service. The Ohio commission found that "Intrado is a telecommunications carrier engaged in the provision of telephone exchange service pursuant to Section 251 of 1996 Act" when Intrado Comm offers its competitive 911/E-911 service offering to PSAPs.<sup>84</sup> This is consistent with the recommendation by the Public Staff of the North Carolina Utilities Commission ("Public Staff") in Intrado Comm's pending arbitration proceeding with AT&T that the full North Carolina commission find Intrado Comm's competitive 911/E-911 service to PSAPs constitutes telephone exchange service pursuant to Section 251 of the Act because such a finding is supported by the Commission's *Advanced Services Order* and the fact that "AT&T itself has treated 911/E911 service or other service with similar characteristics as telephone exchange services."<sup>85</sup> The Public Staff further recommended that AT&T be required to offer interconnection to Intrado

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<sup>83</sup> *California SCC Order* at 9.

<sup>84</sup> Ohio Case No. 07-1199-TP-ACE, *Application of Intrado Communications Inc. to Provide Competitive Local Exchange Services in the State of Ohio*, Finding and Order at Finding 7 (Feb. 5, 2008) ("Order on Rehearing (Apr. 2, 2008) (*Ohio Certification Rehearing Order*)").

<sup>85</sup> NCUC Docket No. P-1187, Sub 2, *Petition of Intrado Communications Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, to Establish an Interconnection Agreement with BellSouth Telecommunications, Inc. d/b/a AT&T North Carolina*, Proposed Recommended Arbitration Order of the Public Staff at 9 (filed Oct. 10, 2008) ("NCUC Public Staff Proposed Order"), available at <http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=2AAAAA78280B&parm3=000127996>.

under Section 251(c) of the Act.<sup>86</sup> The Commission should make the same findings here.

**Commercial Agreements Undermine the Commission's Jurisdiction.** Competitors are entitled to interconnect with ILECs pursuant to 251(c).<sup>87</sup> Intrado Comm is a competitor and Verizon is an ILEC, yet Verizon claims Intrado Comm is the one competitor that should be denied its 251(c) rights.<sup>88</sup> The "commercial agreement" proposed by Verizon<sup>89</sup> will not provide Intrado Comm with the interconnection necessary for Intrado to "compete directly with the [ILEC] for its customers and its control of the local market."<sup>90</sup> Nor would a commercial agreement provide the Commission with the necessary oversight of 911 arrangements. There is no requirement that commercial, non-251 agreements be filed with state commissions, be subject to state commission review or oversight, or be publicly available for other carriers to review. Adoption of Verizon's position would therefore eliminate the Commission's ability to oversee the competitive deployment of and provision of 911 services to Virginia public safety agencies.

Verizon's position is also contrary to other state commission findings that the public interest requires competitive 911/E-911 system providers like Intrado Comm to be subject to common carrier regulation because "of the utmost importance that the continuance and quality of a 9-1-1 call be preserved and enhanced."<sup>91</sup> As "a matter of public safety," the Illinois commission determined that competitive 911/E-911 services should be regulated because the

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<sup>86</sup> NCUC Public Staff Proposed Order at 10-11.

<sup>87</sup> *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, et al.*, 17 FCC Rcd 27039, n.200 (2002) ("Virginia Arbitration Order") (stating that ILECs are required by Section 251(c)(2) to allow competitors to interconnect while interconnection arrangements between "non-incumbent carriers" are governed by Section 251(a)).

<sup>88</sup> Verizon Statement of Relevant Authority at 13.

<sup>89</sup> Verizon Statement of Relevant Authority at 1.

<sup>90</sup> *Local Competition Order* ¶ 55.

<sup>91</sup> *Illinois SCC Order* at 8.

“public interest is protected when [Intrado Comm’s] services are regulated.”<sup>92</sup> The Illinois commission’s previous findings are on par with those of the Public Utilities Commission of Ohio, which noted “the importance of regulating competitive emergency services telecommunications carriers in light of the significant public interest surrounding the provision of 9-1-1 service.”<sup>93</sup> Adoption of Verizon’s position would violate the Ohio commission’s determination that state commission “oversight and resolution of disputes raised in [an arbitration] proceeding are of significant public interest due to the fact that the identified issues directly impact the provisioning of uninterrupted emergency 9-1-1 service.”<sup>94</sup>

In a similar situation, the Indiana Regulatory Utility Commission recently determined that a private, commercial agreement between various Verizon entities and INdigital Telecom is an interconnection agreement subject to the requirements of Section 252 of the Act.<sup>95</sup> INdigital sought interconnection with Verizon to provide competitive 911/E-911 services to Indiana public safety agencies. After an interconnection dispute, INdigital and Verizon entered into a private, commercial agreement that was not filed with the Indiana commission or subject to review by other competitors. Intrado Comm challenged the private nature of the agreement, and the Indiana commission agreed that the agreement should be filed with the commission and subject to public review. Specifically, the Indiana commission found that the agreement between Verizon and INdigital “contains precisely the types of information typically contained in 47

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<sup>92</sup> *Illinois SCC Order* at 8.

<sup>93</sup> *Ohio Certification Order* at Finding 7.

<sup>94</sup> *Ohio Embarq Arbitration Award* at 15.

<sup>95</sup> Indiana Cause No. 43277, *Complaint of Communications Venture Corporation d/b/a INdigital Telecom (“INdigital”) against Verizon North, Inc. and Contel of the South, Inc. d/b/a Verizon North Systems (collectively “Verizon”) Concerning the Refusal of Verizon to Allow Connection of INdigital’s Wireless Enhanced 911 Telephone System Serving Public Safety Answering Points, and INdigital’s Request for the Indiana Utility Regulatory Commission to Order the Connection under Reasonable Terms, Conditions, and Compensation*, Final Order (Nov. 20, 2008) (“*Indiana INdigital Order*”).

U.S.C. 252 agreements: selective routing of traffic, purchase of trunks, port charges and terms of compensation, among others.”<sup>96</sup>

Finally, the use of a commercial arrangement between Verizon and Intrado Comm would also hinder other competitors’ ability to compete with Verizon in the provision of 911/E-911 services to PSAPs.<sup>97</sup> As the Indiana commission found, the lack of public filing would “thwart the public availability requirements for such agreements contained in federal law.”<sup>98</sup> Public availability of agreements between ILECs like Verizon and competitors like Intrado Comm serves the underlying purposes of Sections 251/252 to guard against discrimination and ensure Intrado Comm (and all other competitors) receives interconnection from Verizon that is “equal in quality” to the interconnection Verizon provides to itself and other carriers. Having the opportunity to review agreements gives a state commission and potential competitors “a starting point for determining what is ‘technically feasible’ for interconnection,” such as the types of standards and operational procedures in place between carriers.”<sup>99</sup> Accordingly, Verizon’s proposed use of a “commercial” agreement should be rejected.

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<sup>96</sup> *Indiana INdigital Order* at 9.

<sup>97</sup> *Cf. Local Competition Order* ¶ 168.

<sup>98</sup> *Indiana INdigital Order* at 9.

<sup>99</sup> *Local Competition Order* ¶ 167.



**II. ISSUE 1: WHERE SHOULD THE POINTS OF INTERCONNECTION BE LOCATED AND WHAT TERMS AND CONDITIONS SHOULD APPLY WITH REGARD TO INTERCONNECTION AND TRANSPORT OF TRAFFIC**

**ISSUE 5: HOW SHOULD THE PARTIES ROUTE 911/E-911 CALLS TO EACH OTHER**

Verizon's attempt to offhandedly dismiss the POI and dedicated trunking arrangements it has established within its own network for 911/E-911 traffic should be rejected. Intrado Comm is not seeking terms or conditions that "violate" established law or existing industry practices.<sup>100</sup> Intrado Comm's POI and direct trunking proposal reflects the requirements of the law; the way in which Verizon compels CLECs to interconnect with Verizon's network to reach Verizon's PSAP customers; the manner in which Verizon provides 911/E-911 services today between its own 911 calling customers and PSAP customers; and industry-accepted practices. All of these sources support the establishment of the POI for the exchange of 911/E-911 calls at the selective router of the carrier serving the PSAP and delivering 911/E-911 calls over dedicated direct trunks to the selective router serving the PSAP. For example:

- Intrado Comm seeks to have Verizon establish two (2) POIs on Intrado Comm's network when Intrado Comm is the designated 911/E-911 service provider for the termination of 911/E-911 calls destined for Intrado Comm's PSAP customers.<sup>101</sup> The Commission's rules recognize that the selective router is the "cost allocation" point for the exchange of 911/E-911 traffic.<sup>102</sup> Verizon also recognizes that the ILEC-established industry practice is that the POI for connecting to the 911/E-911 network is at the selective router,<sup>103</sup> and Verizon requires the same arrangement when it is the designated 911/E-911 service provider.<sup>104</sup>
- Intrado Comm proposes the use of dedicated trunking from Verizon's end offices to Intrado Comm's selective router to carry 911/E-911 calls destined for Intrado Comm's

<sup>100</sup> Verizon Statement of Relevant Authority at 3.

<sup>101</sup> Intrado Comm Statement of Unresolved Issues at 6.

<sup>102</sup> *King County Order* ¶ 1.

<sup>103</sup> Intrado Comm Statement of Unresolved Issues at 7.

<sup>104</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).



PSAP customers.<sup>105</sup> Verizon recognizes that dedicated trunking to the selective router serving the PSAP provides the most reliable and redundant 911/E-911 network,<sup>106</sup> and Verizon implements the same arrangements when it is the designated 911/E-911 service provider.<sup>107</sup>

- Intrado Comm proposes the establishment of two geographically diverse POIs to ensure redundancy in the 911/E-911 network.<sup>108</sup> Verizon similarly uses “mated” or “paired” selective routers in its network to establish diversity and redundancy within its own 911/E-911 network, and has established dedicated trunks to each selective router. Verizon also requires competitors to interconnect at both selective routers to terminate 911/E-911 traffic to Verizon’s PSAP customers.<sup>109</sup>
- Intrado Comm proposes the use of diversely routed trunks between the switch originating the 911 call (*i.e.*, Verizon’s end office) and the selective router serving the PSAP (*i.e.*, Intrado Comm’s selective router).<sup>110</sup> Verizon requires CLECs to provide a minimum of two dedicated trunks to each Verizon selective router to send their end users’ 911 calls to Verizon’s PSAP customers.<sup>111</sup>
- Intrado Comm’s language does not dictate a specific method for Verizon to use to route its end users’ 911 calls to the appropriate Intrado Comm selective router, only that Verizon use dedicated trunks to do so. Verizon likewise does not require CLECs to use a specific method to determine to which selective router a 911 call should be delivered. Rather, the interconnection agreement merely states that the CLEC is required to deliver its end users’ 911 calls to the “designated” selective router.<sup>112</sup>

Intrado Comm’s network architecture proposal is not “novel” as Verizon claims.<sup>113</sup> Nor are

Intrado Comm’s proposed interconnection arrangements different from those Verizon and other

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<sup>105</sup> Intrado Comm Statement of Unresolved Issues at 20.

<sup>106</sup> Intrado Comm Statement of Unresolved Issues at nn.62, 63.

<sup>107</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>108</sup> Intrado Comm Statement of Unresolved Issues at 11.

<sup>109</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>110</sup> Intrado Comm Statement of Unresolved Issues at 11.

<sup>111</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>112</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>113</sup> Verizon Statement of Unresolved Issues at 15.

911/E-911 service providers use today.<sup>114</sup> It is just the opposite. Intrado Comm's proposal is entirely consistent with industry network interconnection arrangements as implemented by Verizon within its own network for service to its own customers and those interconnection arrangements established by Verizon for other carriers seeking to terminate 911/E-911 calls to Verizon's PSAP customers.

Verizon's reliance on Intrado Comm's arbitration decision with Embarq from the Ohio commission is also misplaced and inaccurate.<sup>115</sup> Importantly, the Ohio commission adopted Intrado Comm's POI proposal finding that the POI should be located at the selective router of the 911/E-911 network provider and that an ILEC sending 911/E-911 calls to Intrado Comm is responsible for delivering its 911/E-911 calls to an Intrado Comm selective router location.<sup>116</sup> Specifically, the Ohio commission determined

the point of interconnection to the wireline E9-1-1 network is at the selective router of the E9-1-1 network provider and consistent with the FCC's findings [in the *King County Order*], each party bears the cost of getting to the point of interconnection.<sup>117</sup>

The Ohio commission further determined that, in order to maintain this form of interconnection in a competitive market for 911 services to PSAPs, Section 251(a) along with its broad authority over 911 service supported the adoption of Intrado Comm's proposed interconnection arrangements.<sup>118</sup>

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<sup>114</sup> Verizon Statement of Unresolved Issues at 14.

<sup>115</sup> Verizon Statement of Relevant Authority at 20.

<sup>116</sup> *Ohio Embarq Arbitration Award* at 33.

<sup>117</sup> *Ohio Embarq Arbitration Award* at 33.

<sup>118</sup> *Ohio Embarq Arbitration Award* at 15. The Ohio commission correctly found that it had authority to arbitrate and oversee all Section 251 interconnection agreements, not just those pertaining to Section 251(c). *See id.*; *see also Ohio CBT Rehearing Award* at 11-12 ("Even though neither party raised the application of Section 251(a) as an issue, the Commission is not barred by mere omission from applying applicable law. The Commission agrees with Intrado that a state commission can use its Section 252 arbitration and enforcement authority over all Section 251

Further, the dedicated trunking issue before the Ohio commission was framed differently than the issue presented to this Commission for arbitration. Embarq had agreed during the parties' negotiations to deploy dedicated trunking from its end offices to Intrado Comm's selective router in situations in which the entire end office is served by the same PSAP.<sup>119</sup> AT&T also has agreed in its interconnection negotiations with Intrado Comm to the same arrangement.<sup>120</sup> In fact, out of the major ILECs from which Intrado Comm is seeking interconnection throughout the United States, Verizon is the only one to refuse to implement dedicated trunking with Intrado Comm for end offices served by a single PSAP. In addition, under Intrado Comm's proposed language in this proceeding, to the extent Verizon cannot determine on which dedicated trunk to place its end users' 911/E-911 calls, the Parties would work with the affected PSAPs to determine the best arrangement in the case of a split rate center.<sup>121</sup> Thus, Verizon's description of the Ohio commission's arbitration decision regarding Intrado Comm and Embarq is inaccurate and should be given no weight.

Verizon is also wrong that other carriers in Virginia will be disadvantaged by Intrado Comm's interconnection architecture proposal.<sup>122</sup> CLECs and other carriers in Virginia will have numerous options for reaching Intrado Comm's PSAP customers in Virginia. Many voice service providers have regional or nationwide footprints. Intrado Comm plans to deploy at least

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agreements. . . . the Commission has the authority and the requirement to consider Section 251(a) where it is applicable").

<sup>119</sup> *Ohio Embarq Arbitration Award* at 30. The issue in dispute between Intrado Comm and Embarq was whether dedicated trunking from Embarq's end offices was required to be used in a split rate center situation, *i.e.*, when an end office is served by more than one PSAP.

<sup>120</sup> See, *e.g.*, Ohio Case No. 07-1280-TP-ARB, *Petition of Intrado Communications, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with the Ohio Bell Telephone Company d/b/a AT&T Ohio*, AT&T Ohio's Initial Post-Hearing Brief at 21 (filed Oct. 30, 2008). Intrado Comm and AT&T, however, continue to dispute whether AT&T is required to deploy dedicated trunking from its end offices when an end office is served by more than one PSAP.

<sup>121</sup> Intrado Comm Petition at Attachment 3, 911 Attachment § 1.3.2.3.

<sup>122</sup> Verizon Statement of Unresolved Issues at 5-6.

two, and possibly more, selective routers in every state in which Intrado Comm offers service, including Virginia.<sup>123</sup> By connecting to any Intrado Comm selective router, a carrier can reach any PSAP connected to Intrado Comm's network. As an example, interconnecting to Intrado Comm's selective routers in Florida will still permit 911 call delivery to one of Intrado Comm's PSAP customers in Virginia. This means that Verizon, a CLEC, or any other carrier could choose to connect to any two Intrado Comm Intelligent Emergency Network® access ports anywhere in Intrado Comm's nationwide network to reach a Virginia PSAP and all other PSAPs served by Intrado Comm throughout the country. Given that Verizon, its affiliates, and many other carriers provide services throughout the nation, interconnecting outside of Virginia may be more efficient for many providers. In either case, however, there will be at least two geographically diverse Intrado Comm selective routers located in Virginia at which Verizon, CLECs, and other carriers can interconnect with Intrado Comm to deliver 911/E-911 calls destined for Intrado Comm's Virginia PSAP customers. Verizon's concerns about the impact of Intrado Comm's proposals on other carriers are misplaced and not relevant to its interconnection arrangement with Intrado Comm.<sup>124</sup>

Further, Verizon's so-called concerns are not justification for Verizon's planned use of tandem transit arrangements to send 911/E-911 service traffic to Intrado Comm.<sup>125</sup> Transit

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<sup>123</sup> Verizon is wrong when it claims that Intrado Comm's language would allow Intrado to choose as many POIs as it wishes. See Verizon Statement of Unresolved Issues at 4. Intrado Comm has informed Verizon and put on the record in numerous states that it intends to place a minimum of two selective routers in each state in which it offers 911/E-911 service. This includes Virginia. The Parties' interconnection agreement also makes clear that the agreement applies to the Commonwealth of Virginia, not other states. See Intrado Comm Petition at Attachment 3, General Terms and Conditions § 43.1. Thus, there is no merit to Verizon's claim that the POIs will be outside of Virginia. While there will be additional POIs available to Verizon outside of Virginia, there will be at least two available in Virginia.

<sup>124</sup> Cf. Verizon Statement of Relevant Authority at 24 (arguing that a Section 251(c) agreement is limited to matters between Intrado Comm and Verizon and does not bind third parties).

<sup>125</sup> Verizon Statement of Unresolved Issues at 6.

arrangements are not used for 911/E-911 service traffic. In today's environment, competitive carriers must deploy dedicated trunks to all of Verizon's selective routers and route their 911 calls to the appropriate Verizon served PSAP. There is a good reason for using such an arrangement and it makes no sense to alter this sensible network arrangement designed by Verizon presumably to increase the odds of saving lives. Verizon's proposal is inconsistent with its own treatment of 911/E-911 service calls and should be rejected.<sup>126</sup>

Further, in its public filings to the Commission, Verizon has eschewed any obligation to provide transit services under a Section 251(c) interconnection agreement. As Verizon's filings state, "nothing in the Act requires Verizon to accept any CLEC traffic that is destined for another carrier (such as another CLEC or a non-Verizon ILEC)" and thus Verizon only "voluntarily provides these services."<sup>127</sup> A service as important as 911 should not be relegated to "voluntary" transit service arrangements that, in Verizon's view, it is under no obligation to provide.

Transit service arrangements are simply inapplicable to 911/E-911 service traffic. Verizon utilizes dedicated trunking within its own network for 911/E-911 service traffic and requires competitors seeking to terminate 911 calls to Verizon's PSAP customers to also use dedicated trunking to deliver 911 calls to Verizon's selective routers. Imposing a different type of interconnection arrangement on Intrado Comm is discriminatory and violates Intrado Comm's right to interconnection arrangements that are equal in quality to those Verizon provides itself or any other carrier.<sup>128</sup>

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<sup>126</sup> See, e.g., Ohio Case 08-198-TP-ARB, Hearing Transcript at 106-13 (Jan. 13, 2009) (set forth in Attachment 1).

<sup>127</sup> *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, Reply Comments of Verizon at 25, 26-27 (Nov. 5, 2001).

<sup>128</sup> 47 U.S.C. § 251(c)(2)(C).

Verizon's unsupported and unsubstantiated claims regarding the potential cost to implement Intrado Comm's interconnection proposals should also be rejected.<sup>129</sup> While Verizon claims Intrado Comm should be responsible for any "expensive" form of interconnection it requests,<sup>130</sup> Verizon has provided no evidence supporting its allegation that implementation of Intrado Comm's proposals would impose cost on Verizon. The sole consideration is whether Intrado Comm's interconnection proposals are technically feasible. Under the Commission's rules, the determination of technical feasibility does not include consideration of economic concerns.<sup>131</sup> Once Intrado Comm has demonstrated that its proposal is technically feasible, the burden shifts to Verizon to demonstrate, by clear and convincing evidence, that the proposal is not technically feasible or that "specific and significant adverse impacts" would result from Intrado Comm's requested interconnection arrangement.<sup>132</sup> Verizon has not met that burden here and thus its unproven claims should be rejected.<sup>133</sup>

### **III. ISSUE 2: WHETHER THE PARTIES SHOULD IMPLEMENT INTER-SELECTIVE ROUTER TRUNKING AND WHAT TERMS AND CONDITIONS SHOULD GOVERN THE EXCHANGE OF 911 CALLS BETWEEN THE PARTIES**

Verizon's objections to Intrado Comm's proposed inter-selective router language make no sense. *First*, for all of the reasons discussed above, the POI should be located on Intrado Comm's network when Intrado Comm is the designated 911/E-911 service provider.<sup>134</sup> When a 911/E-911 call needs to be sent to Intrado Comm's PSAP customer, Verizon should be required

<sup>129</sup> Verizon Statement of Relevant Authority at 21.

<sup>130</sup> Verizon Statement of Relevant Authority at 25.

<sup>131</sup> 47 C.F.R. § 51.5 (defining technical feasibility).

<sup>132</sup> *Local Competition Order* ¶¶ 198, 203.

<sup>133</sup> For similar reasons as those set forth in this Section, Intrado Comm's proposed language for Issue 4 should also be adopted.

<sup>134</sup> Verizon Statement of Unresolved Issues at 8.



to transport that call to Intrado Comm's network consistent with industry practice and the 911 interconnection arrangements Verizon has implemented within its own network. Similarly, when a 911/E-911 call needs to be sent to Verizon's PSAP customer, Intrado Comm will transport that call to Verizon's network.

Second, Verizon claims that Intrado Comm is trying to force Verizon to implement inter-selective router capabilities regardless of whether any PSAP requested it.<sup>135</sup> Verizon's argument is contrary to the language of the interconnection agreement. The Parties have agreed to language indicating that inter-selective router trunking arrangements would be established between the Parties when each Party's customer agrees that 911 calls should be transferred between PSAPs served by each Party:

Where the Controlling 911 Authority for a PSAP for which Verizon is the 911/E-911 Service Provider and the Controlling 911 Authority for a PSAP for which Intrado Comm is the 911/E-911 Service Provider agree to transfer 911/E-911 Calls from one PSAP to the other PSAP and each Controlling 911 Authority requests its 911/E-911 Service Provider to establish arrangements for such 911/E-911 Call transfers, each Party shall. . . .<sup>136</sup>

Verizon's claim that Intrado Comm can "force" Verizon to implement inter-selective router trunking without PSAP input is simply not true.<sup>137</sup>

Third, Verizon is wrong when it says call transfer capability does not "involve interconnection with the public switched telephone network."<sup>138</sup> The 911 network is interconnected to the PSTN as recognized by the Commission,<sup>139</sup> and a wireless or wireline 911 call originates on the PSTN. Moreover, origination on the PSTN is not the determination of

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<sup>135</sup> Verizon Statement of Unresolved Issues at 9.

<sup>136</sup> Intrado Comm Petition at Attachment 3, 911 Attachment § 1.4.1.

<sup>137</sup> Verizon Statement of Relevant Authority at 17.

<sup>138</sup> Verizon Statement of Relevant Authority at 17.

<sup>139</sup> 47 C.F.R. § 9.3 (defining wireline E-911 network); *see also* *VoIP E911 Order* ¶ 15.

whether a service is a telephone exchange service for the purposes of Section 251(c)(2). The Commission has explicitly stated that it “has never suggested that the telephone exchange service definition is limited to voice communications provided over the public circuit-switched network.”<sup>140</sup> Rather, the Commission found that telephone exchange service includes “the provision of alternative local loops for telecommunications services, separate from the public switched telephone network, in a manner ‘comparable’ to the provision of local loops by a traditional local telephone exchange carrier.”<sup>141</sup>

*Fourth*, Verizon has provided no support for its argument that Intrado Comm seeks an “excessive level” of dial plan information in the interconnection agreement.<sup>142</sup> Intrado Comm’s proposed language could not be more straightforward:

The Parties will maintain appropriate inter-911 Tandem/Selective Router dial plans to support inter-PSAP transfer and shall notify the other of changes, additions, or deletions to their inter-PSAP transfer dial plans.<sup>143</sup>

Verizon admits that it provides dial plan information to other 911/E-911 service providers,<sup>144</sup> and Intrado Comm should be treated no differently.<sup>145</sup> It is for this reason that the West Virginia commission adopted Intrado Comm’s position<sup>146</sup> and the Staff of the Illinois commission has recommended adoption of Intrado Comm’s language based on their finding that Intrado Comm’s

<sup>140</sup> *Advanced Services Order* ¶ 20.

<sup>141</sup> *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 11501, ¶ 54 (1998) (emphasis added).

<sup>142</sup> Verizon Statement of Unresolved Issues at 9.

<sup>143</sup> Intrado Comm Petition at Attachment 3, 911 Attachment § 1.4.4.

<sup>144</sup> Verizon Statement of Unresolved Issues at 9.

<sup>145</sup> 47 U.S.C. § 251(c)(2)(C); 47 C.F.R. § 51.305(a)(3).

<sup>146</sup> Case No. 08-0298-T-PC, *Intrado Communications Inc. and Verizon West Virginia Inc., Petition for Arbitration pursuant to § 252(b) of 47 U.S.C. and 150 C.S.R. 6.15.5*, Arbitration Award, at 16-17 (Nov. 14, 2008) (“*West Virginia ALJ Award*”), approved by Commission Order (Dec. 16, 2008).



language “seems reasonable and not ‘excessive.’”<sup>147</sup> Accordingly, Intrado Comm’s proposed language should be adopted.

#### **IV. ISSUE 3: WHETHER THE FORECASTING PROVISIONS SHOULD BE RECIPROCAL**

Verizon incorrectly assumes that the forecasting language is not necessary because there will be no 911 calls flowing from Intrado Comm to Verizon.<sup>148</sup> In fact, there are likely to be numerous 911 calls flowing between the Parties’ networks. The huge popularity of mobile technologies, and future services such as 911 text messaging, will make it even more critical to ensure 911 calls reach the appropriate PSAP. Thus, it is likely that the number of calls transferred from Intrado Comm to Verizon will be significantly more than the occasional call Verizon predicts. Indeed, news articles support this position: “Cell phone 911 calls often get routed to the wrong 911 centers because of the location of cell phone towers. This leads to delays in sending help because operators have to figure out where a caller is and which police or fire department should respond, and then transfer the call to that jurisdiction.”<sup>149</sup> Intrado Comm has a legitimate need for Verizon’s trunk forecasts, which Staff of the Illinois commission agreed with when they recommended adoption of Intrado Comm’s language because both Parties have “valuable information regarding trunking levels.”<sup>150</sup> Accordingly, Intrado Comm’s proposed language should be adopted.

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<sup>147</sup> Illinois Stewart Staff Testimony at 8, lines 179-80, *available at* <http://www.icc.illinois.gov/docket/files.aspx?no=08-0550&docId=132117>.

<sup>148</sup> Verizon Statement of Unresolved Issues at 10.

<sup>149</sup> Sofia Santana, “Cell phone 911 calls are often routed to the wrong call centers,” *SOUTH FLORIDA SUN-SENTINEL*, June 21, 2008.

<sup>150</sup> Illinois Stewart Staff Testimony at 9, lines 215-16, *available at* <http://www.icc.illinois.gov/docket/files.aspx?no=08-0550&docId=132117>.

**V. ISSUE 7: WHETHER THE AGREEMENT SHOULD CONTAIN PROVISIONS WITH REGARD TO THE PARTIES MAINTAINING ALI STEERING TABLES, AND IF SO, WHAT THOSE PROVISIONS SHOULD BE**

Intrado Comm has not acknowledged that automatic location information (“ALI”) is an information service when provided in conjunction with a complete 911/E-911 service as Verizon claims.<sup>151</sup> There are three integrated components that are necessary to provide 911/E-911 service – the selective router, the database system that retains the ALI, and the transport of the 911 call to the PSAP. Under Commission precedent, *stand-alone* ALI may be viewed as an information service.<sup>152</sup> But Intrado Comm’s request for ALI steering capabilities has nothing to do with stand-alone ALI functions. ALI steering is needed to ensure interoperability between the Parties’ 911 networks as contemplated by Section 251(c).<sup>153</sup> The switching and transmission components would be useless without the ALI functions, and 911 call routing to the appropriate PSAP could not occur without the processing necessary for the creation of ALI records. The Commission also has recognized that all of the various components come together to form an all-inclusive service offering known as the “wireline E-911 network.”<sup>154</sup> The transfer of ALI information between the Parties is an integral component of the 911/E-911 service each Party provides to its PSAP customers and is therefore appropriate to include in the Parties’ interconnection agreement.

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<sup>151</sup> Verizon Statement of Unresolved Issues at 18.

<sup>152</sup> *Bell Operating Companies Petition for Forbearance from the Application of Section 272 of the Communications Act of 1934, as Amended, to Certain Activities*, 13 FCC Rcd 2627, ¶ 17 (1998) (“*Forbearance Order*”). However, in a carrier-to-carrier relationship pursuant to Section 251, ALI databases are considered to be telecommunications services that ILECs are required to offer on an unbundled basis. See 47 U.S.C. § 251(c); 47 C.F.R. § 51.319(f); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, ¶ 557 (2003) (“*Triennial Review Order*”), *aff’d in part, remanded in part, vacated in part, U.S. Telecom Ass’n v. FCC*, 359 F.3d 554, 587 (D.C. Cir. 2004) (subsequent history omitted).

<sup>153</sup> 47 U.S.C. § 251(c)(5).

<sup>154</sup> *VoIP E911 Order* ¶ 15 (finding the Wireline 911 Network consists of the Selective Router, the trunk line(s) between the Selective Router and the PSAP, the ALI database, the SRDB, the trunk line(s) between the ALI database and the PSAP, and the MSAG).

Further, the existing commercial agreement between Intrado Comm's affiliate and Verizon does not address the arrangements Intrado Comm seeks here.<sup>155</sup> As an initial matter, Intrado Comm is not a party to that agreement and cannot avail itself of the provisions of that agreement. More importantly, that commercial agreement does not govern the exchange of 911/E-911 service traffic pursuant to Section 251(c) like the instant interconnection agreement under review by the Commission. Interoperability between the Parties' networks, including the exchange of ALI, is a key component of ensuring Virginia PSAPs have adequate call transfer capabilities and that Virginia consumers' 911 calls reach the appropriate PSAP. Accordingly, Intrado Comm's proposed language should be adopted.

**VI. ISSUE 9: SHOULD SECTION 2.5 OF THE 911 ATTACHMENT BE MADE RECIPROCAL AND QUALIFIED AS PROPOSED BY INTRADO**

Verizon is correct that whether a party has a right to deliver calls to a PSAP is a matter outside of the Section 251(c) interconnection agreement.<sup>156</sup> That is precisely why Intrado Comm has proposed deleting Verizon's language from the Parties' interconnection agreement.<sup>157</sup> Intrado Comm's position is consistent with the West Virginia commission's determination that Verizon's proposed language should be rejected, and if there is a legitimate reason for either Verizon or Intrado Comm to directly route 911 calls to PSAPs served by the other, those reasons and conditions must be clearly spelled out in the interconnection agreement.<sup>158</sup> Accordingly, Verizon's proposed language should be deleted.

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<sup>155</sup> Verizon Statement of Unresolved Issues at 18.

<sup>156</sup> Verizon Statement of Unresolved Issues at 21.

<sup>157</sup> Intrado Comm Petition at Attachment 3, 911 Attachment §§ 2.5, 2.6.

<sup>158</sup> *West Virginia ALJ Award* at 28.

**VII. ISSUE 16: SHOULD THE VERIZON-PROPOSED TERM “A CALLER” BE USED TO IDENTIFY WHAT ENTITY IS DIALING 911, OR SHOULD THIS TERM BE DELETED, AS PROPOSED BY INTRADO**

The Verizon-proposed term “a caller” is too restrictive. Verizon recently admitted in Ohio that its proposed term is intended to limit 911 arrangements to “fixed line subscriber dial tone.”<sup>159</sup> This limitation does not account for users of wireless services or interconnected Voice over Internet Protocol (“VoIP”) services that may be dialing 911 to contact one of the Parties’ PSAP customers. This so called “clarification”<sup>160</sup> is inconsistent with the types of 911/E-911 calls that will be exchanged between the Parties and should therefore be rejected.

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<sup>159</sup> Ohio Case 08-198-TP-ARB, Hearing Transcript at 169-70 (Jan. 13, 2009) (set forth in Attachment 1).

<sup>160</sup> Verizon Statement of Relevant Authority at 28.

### CONCLUSION

For the foregoing reasons and those set forth in Intrado Comm's Petition for Arbitration, Intrado Comm respectfully requests that the Commission arbitrate the outstanding issues identified herein and adopt Intrado Comm's position and proposed contract language.

Respectfully submitted,

**INTRADO COMMUNICATIONS OF  
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Dated: January 26, 2009

Its Attorneys

**CERTIFICATE OF SERVICE**

I, Angela F. Collins, certify that on this 26th day of January 2009, I served a copy of the foregoing Reply on the following via the method indicated:

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**Exhibit DP-4**

***Petition for Arbitration Pursuant to Section 252(b) of the Comm.  
Act of 1934, as Amended, to Establish an Interconnection  
Agreement with Ill. Bell. Tel. Co., Docket 08-0545, Arbitration  
Decision (March 17, 2009)***



**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Intrado, Inc.	:	
	:	
Petition for Arbitration pursuant to	:	
Section 252(b) of the Communications	:	08-0545
Act of 1934 as amended, to Establish	:	
an Interconnection Agreement with	:	
Illinois Bell Telephone Company.	:	

**ARBITRATION DECISION**

DATED: March 17, 2009

08-0545  
Arbitration Decision

## TABLE OF CONTENTS

I. PROCEDURAL HISTORY .....	1
II. JURISDICTION .....	2
III. PROPOSED SERVICES & CURRENT AGREEMENTS .....	2
IV. ISSUES FOR RESOLUTION .....	3
Issue 1: .....	3
A. PARTIES POSITIONS AND PROPOSALS .....	3
1. <i>Intrado</i> .....	3
2. <i>AT&amp;T</i> .....	4
3. <i>Staff</i> .....	5
4. <i>Analysis and Conclusions</i> .....	5
a) Call Origination .....	7
b) Intercommunicating Service (or "Intercommunication") .....	10
c) Service Within a Telephone Exchange or Connected Exchange System of the Character Ordinarily Furnished by a Single Exchange .....	15
d) Exchange Service Charge .....	16
e) Comparison to AT&T'S 911 Service .....	18
f) The Pro-Competitive Policy in Applicable Law .....	19
g) Commission Discretion to Arbitrate .....	19
h) Summary – "Telephone Exchange Service" .....	21
i) Subsection 251(a) of the Federal Act .....	21
Issues 2-5, 7-12, 15, 17-18, 22-29, 33-36 .....	25
V. STAFF'S REQUEST FOR A GENERIC PROCEEDING .....	25
VI. FINDINGS AND ORDERING PARAGRAPHS .....	26

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Intrado, Inc.	:	
	:	
Petition for Arbitration pursuant to	:	
Section 252(b) of the Communications	:	08-0545
Act of 1934 as amended, to Establish	:	
an Interconnection Agreement with	:	
Illinois Bell Telephone Company.	:	

**ARBITRATION DECISION**

By the Commission:

**I. PROCEDURAL HISTORY**

On September 22, 2008, Intrado, Inc. ("Intrado"), filed a Petition for Arbitration ("Petition") pursuant to subsection 252(b)<sup>1</sup> of the federal Telecommunications Act of 1996 ("Federal Act")<sup>2</sup>. The Petition seeks to create an interconnection agreement ("ICA") between Intrado and Illinois Bell Telephone Company ("AT&T"), an incumbent local exchange carrier ("ILEC") in certain geographic areas of Illinois. Intrado has certificates of telecommunications operating authority in Illinois, issued by this Commission.<sup>3</sup> Intrado asserts that AT&T has a duty under subsection 251(c)(2) of the Federal Act<sup>4</sup> to interconnect with it, so that Intrado can provide telecommunications services in areas in which AT&T also provides local exchange services. Intrado's principal intention is to provide services related to 911/E911 telecommunications (for brevity, "911 service") to Emergency Telephone Systems Boards ("ETSBs") for the operation of Public Safety Answering Points ("PSAPs"). Intrado presents several issues for arbitration.

AT&T filed its Response to Intrado's Petition ("AT&T Response") on October 17, 2008. In that filing, AT&T notes that it has added two issues for arbitration, as it is permitted to do under subsection 252(a)(4)(A) of the Federal Act<sup>5</sup>. The parties have settled numerous issues over the course of this litigation and this Arbitration Decision addresses only the remaining unresolved issues.

<sup>1</sup> 47 U.S.C. § 252(b).

<sup>2</sup> 47 U.S.C. §§ 151 *et seq.*

<sup>3</sup> *SCC Communications Corp., Application for a Certificate of Authority to Provide Telecommunications Services in the State of Illinois*, Dckt. 00-0606, Order, Dec. 20, 2000 & Amendatory Order, Jan. 31, 2001. SCC subsequently became Intrado, Inc. Intrado is certificated to provide intrastate facilities-based and resold local and interexchange telecommunications services.

<sup>4</sup> 47 U.S.C. § 25(c)(2).

<sup>5</sup> 47 U.S.C. § 252(a)(4)(A).

Two Administrative Law Judges ("ALJ's") of the Commission conducted a pre-arbitration conference on October 1, 2008 and an evidentiary hearing on December 3, 2008, each in Chicago, Illinois. Appearances were entered at each hearing on behalf of Intrado, AT&T and Commission Staff ("Staff"). At the December 3 hearing, Intrado presented the testimony of Thomas Hicks, and Carey Spence-Lenss. AT&T presented the testimony of Patricia Pellerin and Mark Neinast. Staff presented the testimony of Jeffrey Hoagg, Marci Schroll, and Kathy Stewart, each of the Commission's Telecommunications Division. The ALJ's marked the evidentiary record "heard and taken" on February 4, 2008.

Intrado, AT&T and Staff each filed an Initial Brief ("IB") on January 5, 2009 and a Reply Brief ("RB") on January 20, 2009. An ALJ's Proposed Arbitration Decision was served on all parties on February 13, 2008. Intrado and Staff each filed Briefs on Exceptions ("BOE") on February 20, 2009 and Intrado, AT&T and Staff each filed Reply Briefs on Exceptions ("RBOE") on February 27, 2009.

## **II. JURISDICTION**

Subsection 252 of the Federal Act provides that within a specified time period "after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues." Both Intrado's Petition and AT&T's Response assert that there are open issues between the parties. There is no dispute that the Petition was timely filed. Consequently, the Commission has jurisdiction to arbitrate the issues presented.

Section 252 of the Federal Act proscribes certain procedures, standards and outcomes for arbitrations conducted under that section. In addition, the Commission has adopted rules and procedures for such arbitrations in 83 Ill. Adm. Code 761. The foregoing federal and state provisions apply to this proceeding.

## **III. PROPOSED SERVICES & CURRENT AGREEMENTS**

Intrado proposes to provide its 911 service through its Intelligent Emergency Network® ("IEN"), which would facilitate voice and data transmission and retrieve and deliver both Automatic Number Identification ("ANI") (the calling party's telephone number) and Automatic Location Information ("ALI") (the calling party's location) to PSAP customers. The three integrated elements of Intrado's system are switching (utilizing selective call routers or 911 tandems), call information databases (for ANI and ALI) and transport infrastructure between the PSAP and, respectively, the selective routers and the information databases.

Intrado's customers will be PSAPs and related public agencies, not the individual end-users that initiate 911 calls. With respect to wireline telecommunications, the physical components of Intrado's 911 service will not handle a 911 call until it has been relayed from the end office of the ILEC receiving the call. Consequently - and

regardless of whether Intrado is "interconnected" to AT&T within the meaning of subsection 251(c)(2) of the Federal Act - Intrado's 911 service must be physically linked to the public switched telephone network ("PSTN") in order to deliver wireline 911 calls to PSAPs. All telecommunications carriers have an interconnection duty under subsection 251(a)(1) of the Federal Act, and AT&T states that it would enter into a "commercial agreement" with Intrado, as it has with other carriers, to provide the necessary physical linkage. AT&T Ex. 1.0 (Pellerin) at 6. Intrado maintains that its 911 service qualifies for interconnection within the meaning of subsection 251(c)(2) and that Intrado is therefore entitled to the statutory benefits associated with such interconnection.

Intrado does not presently provide the 911 service involved in this proceeding in Illinois. Intrado Ex. 1 (Hicks) at 5. There are two current agreements between Intrado and AT&T for processing voice-over-Internet Protocol ("VOIP") traffic from third parties, under which AT&T supplies telephone exchange service and other services to Intrado. AT&T Ex. 1.0, Sch. PHP-9 (Intrado response to AT&T Data Request 5). There is also an expired ICA, by which Intrado could have transported 911 calls aggregated from third parties. *Id.* Intrado did not conduct operations under that ICA. AT&T Ex. 1.0 at 5; Tr. 160-61 (Pellerin).

#### **IV. ISSUES FOR RESOLUTION**

##### **Issue 1:**

Does Intrado have the right to interconnection with AT&T under Section 251(c) of the Act for Intrado's Provision of competitive 911/E911 services to PSAPs?

##### **A. Parties Positions and Proposals**

###### **1. Intrado**

Intrado maintains that AT&T is required by subsection 251(c)(2) of the Federal Act to provide interconnection to Intrado because, among other reasons, Intrado intends to furnish "telephone exchange service" within the meaning of subsection 251(c)(2)(A). There are two alternative definitions of "telephone exchange service" in the Federal Act<sup>6</sup>, and Intrado avers that its proposed services comport with either alternative (Parts A and B). According to Intrado, the Federal Communications Commission ("FCC") has taken an expansive view of telephone exchange service, placing non-traditional arrangements such as DSL-based service and directory assistance call completion service within that category. Intrado contends that its proposed handling of 911/E911 transmissions should be similarly regarded as telephone exchange service. That result, Intrado believes, would further the pro-competitive policy reflected in the Federal Act.

Intrado relies on certain FCC decisions for the proposition that the "key component" of telephone exchange service is that it enables "intercommunication"

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<sup>6</sup> The definitions appear at 47 U.S.C. §153(47).

08-0545

among a “community of subscribers” within an exchange area. Intrado asserts that its proposed 911 service will perform this intercommunicating function by connecting end-users and Intrado’s PSAP subscribers. Intercommunication does not require that a proposed service supplant a subscriber’s existing local service in order to qualify as telephone exchange service, Intrado argues.

Moreover, Intrado stresses, this Commission has already determined that Intrado provides “telephone exchange service,” in a previous arbitration involving predecessors of, respectively, Intrado and AT&T<sup>7</sup>. In that proceeding, the Commission held that the service contemplated by Intrado’s successor “falls within the definition of telephone exchange service found in 47 USC §153(47).”<sup>8</sup>

Intrado also emphasizes that AT&T, in effect, characterizes its own 911 service as telephone exchange service in its tariffs. Intrado alleges that its 911 service tariff is substantially similar to AT&T’s and should also be regarded as telephone exchange service.

## 2. AT&T

AT&T argues that Intrado’s proposed service is not “telephone exchange service” within the meaning of the Federal Act. For that reason, AT&T asserts, Intrado is not entitled to either subsection 251(c)(2) interconnection or an arbitrated ICA with AT&T. Specifically, AT&T contends that Intrado’s 911 service does not permit subscribers to originate an outbound telecommunications transmission, as Part B of the federal definition requires (a requirement AT&T would also read into Part A). The public agencies using Intrado’s service will need to subscribe to the telephone exchange service of another provider to initiate an outbound or non-911 call. AT&T emphasizes that the Florida Public Service Commission dismissed Intrado’s arbitration requests with AT&T’s Florida affiliate<sup>9</sup> and with another ILEC<sup>10</sup> precisely because, that Commission found, Intrado’s 911 service does not enable call origination.

Intrado’s 911 service also falls outside the definition of telephone exchange service, AT&T charges, because it is not the intercommunicating service explicitly required by Part A (and, according to the FCC, implicitly required by Part B) of §153(47). Intercommunication means that an end-user can call the other end-users in the exchange area, and not merely a pre-designated PSAP, AT&T maintains.

<sup>7</sup> In the Matter of the Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc., Dckt. 00-0769 (March 21, 2000) (“SCC Arbitration”). As previously noted, SCC did not conduct operations under the ICA resulting from that proceeding.

<sup>8</sup> *Id.*, at 6.

<sup>9</sup> Petition by Intrado Communications, Inc., for Arbitration with BellSouth Telecommunications, Inc., d/b/a AT&T Florida, Fla. Pub. Serv. Comm’n. Dckt. 070736-TP, Final Order (Dec. 3, 2008).

<sup>10</sup> Petition by Intrado Communications, Inc., for Arbitration with Embarq Florida, Fla. Pub. Serv. Comm’n. Dckt. 070699-TP, Final Order (Dec. 3, 2008).



AT&T further avers that Intrado's planned service is not "within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area," as expressly required by Part A of the pertinent definition. Nor, AT&T insists, is Intrado's service covered by the "exchange service charge," as Part A also specifies.

As for this Commission's conclusions in the SCC Arbitration, AT&T argues that the telecommunications services involved in the present case are different and that our earlier analysis was inconsistent with certain FCC orders issued prior to or contemporaneous with that arbitration decision.

AT&T additionally suggests that this Commission has the discretion to decline to arbitrate the unresolved issues in this case, and that we can use that discretion in order to await the results of arbitration decisions elsewhere.

### **3. Staff**

Staff maintains that Intrado is entitled to subsection 251(c) interconnection with AT&T, principally because the Commission previously reached that conclusion in the SCC Arbitration. As Staff sees it, "Intrado proposes to provide essentially the same service here as it proposed to provide in" that case. Staff IB at 10. Staff cautions, however, that the terms and conditions of Intrado's interconnection should closely conform to the requirements of subsection 251(c), despite Intrado's request, in certain instances, for non-traditional arrangements. In Staff's view, Intrado should not be permitted to claim the benefits of the Federal Act while simultaneously avoiding its requirements.

### **4. Analysis and Conclusions**

As framed by the parties, the fundamental question in Issue 1 is whether Intrado's 911 service constitutes "telephone exchange service" under Part A or Part B in §153(47). The full statutory definition of "telephone exchange service" is as follows:

(A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.